

CUSTOMS BULLETIN AND DECISIONS

Weekly Compilation of

Decisions, Rulings, Regulations, Notices, and Abstracts

Concerning Customs and Related Matters of the

U.S. Customs Service

U.S. Court of Appeals for the Federal Circuit

and

U.S. Court of International Trade

VOL. 35

JANUARY 24, 2001

NO. 4

This issue contains:

U.S. Customs Service

TD 01-03 Through 01-05

General Notices

NOTICE

The decisions, rulings, regulations, notices and abstracts which are published in the CUSTOMS BULLETIN are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Office of Finance, Logistics Division, National Support Services Center, Washington, DC 20229, of any such errors in order that corrections may be made before the bound volumes are published.

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U.S. Customs Service

Treasury Decisions

(T.D. 01-03)

FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR DECEMBER 2000

The Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, has certified buying rates for the dates and foreign buying rates, are published for the information and use of Customs officers and other concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CRF 159, Subpart C).

Holiday(s): December 25, 2000.

Austria schilling:

December 1, 2000	\$0.063698
December 2, 2000 .....	.063698
December 3, 2000 .....	.063698
December 4, 2000 .....	.064497
December 5, 2000 .....	.063981
December 6, 2000 .....	.064512
December 7, 2000 .....	.064613
December 8, 2000 .....	.064228
December 9, 2000 .....	.064228
December 10, 2000 .....	.064228
December 11, 2000 .....	.063741
December 12, 2000 .....	.063770
December 13, 2000 .....	.063625
December 14, 2000 .....	.064374
December 15, 2000 .....	.065267
December 16, 2000 .....	.065267
December 17, 2000 .....	.065267
December 18, 2000 .....	.064890
December 19, 2000 .....	.064693
December 20, 2000 .....	.065827
December 21, 2000 .....	.066219
December 22, 2000 .....	.067077
December 23, 2000 .....	.067077
December 24, 2000 .....	.067077
December 25, 2000 .....	.067077
December 26, 2000 .....	.067528
December 27, 2000 .....	.067615
December 28, 2000 .....	.067273

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for
December 2000 (continued):

Austria schilling (continued):

December 29, 2000	\$0.068225
December 30, 2000 .....	.068225
December 31, 2000 .....	.068225

Belgium franc:

December 1, 2000	\$0.021728
December 2, 2000 .....	.021728
December 3, 2000 .....	.021728
December 4, 2000 .....	.022001
December 5, 2000 .....	.021825
December 6, 2000 .....	.022006
December 7, 2000 .....	.022040
December 8, 2000 .....	.021909
December 9, 2000 .....	.021909
December 10, 2000 .....	.021909
December 11, 2000 .....	.021743
December 12, 2000 .....	.021753
December 13, 2000 .....	.021703
December 14, 2000 .....	.021958
December 15, 2000 .....	.022263
December 16, 2000 .....	.022263
December 17, 2000 .....	.022263
December 18, 2000 .....	.022134
December 19, 2000 .....	.022067
December 20, 2000 .....	.022454
December 21, 2000 .....	.022588
December 22, 2000 .....	.022881
December 23, 2000 .....	.022881
December 24, 2000 .....	.022881
December 25, 2000 .....	.022881
December 26, 2000 .....	.023034
December 27, 2000 .....	.023064
December 28, 2000 .....	.022948
December 29, 2000 .....	.023272
December 30, 2000 .....	.023272
December 31, 2000 .....	.023272

Finland markka:

December 1, 2000	\$0.147417
December 2, 2000 .....	.147417
December 3, 2000 .....	.147417
December 4, 2000 .....	.149267
December 5, 2000 .....	.148073
December 6, 2000 .....	.149300
December 7, 2000 .....	.149536
December 8, 2000 .....	.148644
December 9, 2000 .....	.148644
December 10, 2000 .....	.148644
December 11, 2000 .....	.147518
December 12, 2000 .....	.147585
December 13, 2000 .....	.147249

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for
December 2000 (continued):

Finland markka (continued):

December 14, 2000	\$0.148981
December 15, 2000 .....	.151050
December 16, 2000 .....	.151050
December 17, 2000 .....	.151050
December 18, 2000 .....	.150175
December 19, 2000 .....	.149721
December 20, 2000 .....	.152345
December 21, 2000 .....	.153253
December 22, 2000 .....	.155237
December 23, 2000 .....	.155237
December 24, 2000 .....	.155237
December 25, 2000 .....	.155237
December 26, 2000 .....	.156280
December 27, 2000 .....	.156482
December 28, 2000 .....	.155692
December 29, 2000 .....	.157895
December 30, 2000 .....	.157895
December 31, 2000 .....	.157895

France franc:

December 1, 2000	\$0.133622
December 2, 2000 .....	.133622
December 3, 2000 .....	.133622
December 4, 2000 .....	.135299
December 5, 2000 .....	.134216
December 6, 2000 .....	.135329
December 7, 2000 .....	.135542
December 8, 2000 .....	.134734
December 9, 2000 .....	.134734
December 10, 2000 .....	.134734
December 11, 2000 .....	.133713
December 12, 2000 .....	.133774
December 13, 2000 .....	.133469
December 14, 2000 .....	.135039
December 15, 2000 .....	.136914
December 16, 2000 .....	.136914
December 17, 2000 .....	.136914
December 18, 2000 .....	.136122
December 19, 2000 .....	.135710
December 20, 2000 .....	.138088
December 21, 2000 .....	.138912
December 22, 2000 .....	.140710
December 23, 2000 .....	.140710
December 24, 2000 .....	.140710
December 25, 2000 .....	.140710
December 26, 2000 .....	.141656
December 27, 2000 .....	.141839
December 28, 2000 .....	.141122
December 29, 2000 .....	.143119
December 30, 2000 .....	.143119
December 31, 2000 .....	.143119

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for
December 2000 (continued):

Germany deutsche mark:

December 1, 2000	\$0.448147
December 2, 2000 .....	.448147
December 3, 2000 .....	.448147
December 4, 2000 .....	.453772
December 5, 2000 .....	.450141
December 6, 2000 .....	.453874
December 7, 2000 .....	.454590
December 8, 2000 .....	.451880
December 9, 2000 .....	.451880
December 10, 2000 .....	.451880
December 11, 2000 .....	.448454
December 12, 2000 .....	.448659
December 13, 2000 .....	.447636
December 14, 2000 .....	.452902
December 15, 2000 .....	.459191
December 16, 2000 .....	.459191
December 17, 2000 .....	.459191
December 18, 2000 .....	.456533
December 19, 2000 .....	.455152
December 20, 2000 .....	.463128
December 21, 2000 .....	.465889
December 22, 2000 .....	.471922
December 23, 2000 .....	.471922
December 24, 2000 .....	.471922
December 25, 2000 .....	.471922
December 26, 2000 .....	.475092
December 27, 2000 .....	.475706
December 28, 2000 .....	.473303
December 29, 2000 .....	.480001
December 30, 2000 .....	.480001
December 31, 2000 .....	.480001

Greece drachma:

December 1, 2000	\$0.002572
December 2, 2000 .....	.002572
December 3, 2000 .....	.002572
December 4, 2000 .....	.002602
December 5, 2000 .....	.002583
December 6, 2000 .....	.002606
December 7, 2000 .....	.002609
December 8, 2000 .....	.002593
December 9, 2000 .....	.002593
December 10, 2000 .....	.002593
December 11, 2000 .....	.002575
December 12, 2000 .....	.002575
December 13, 2000 .....	.002570
December 14, 2000 .....	.002597
December 15, 2000 .....	.002635
December 16, 2000 .....	.002635
December 17, 2000 .....	.002635

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for
December 2000 (continued):

Greece drachma (continued):

December 18, 2000	\$0.002620
December 19, 2000 .....	.002612
December 20, 2000 .....	.002659
December 21, 2000 .....	.002673
December 22, 2000 .....	.002707
December 23, 2000 .....	.002707
December 24, 2000 .....	.002707
December 25, 2000 .....	.002707
December 26, 2000 .....	.002727
December 27, 2000 .....	.002730
December 28, 2000 .....	.002715
December 29, 2000 .....	.002755
December 30, 2000 .....	.002755
December 31, 2000 .....	.002755

Ireland pound:

December 1, 2000	\$1.112925
December 2, 2000	1.112925
December 3, 2000	1.112925
December 4, 2000	1.126893
December 5, 2000	1.117877
December 6, 2000	1.127146
December 7, 2000	1.128924
December 8, 2000	1.122195
December 9, 2000	1.122195
December 10, 2000	1.122195
December 11, 2000	1.113687
December 12, 2000	1.114195
December 13, 2000	1.111656
December 14, 2000	1.124734
December 15, 2000	1.140352
December 16, 2000	1.140352
December 17, 2000	1.140352
December 18, 2000	1.133749
December 19, 2000	1.130321
December 20, 2000	1.150129
December 21, 2000	1.156985
December 22, 2000	1.171968
December 23, 2000	1.171968
December 24, 2000	1.171968
December 25, 2000	1.171968
December 26, 2000	1.179841
December 27, 2000	1.181364
December 28, 2000	1.175397
December 29, 2000	1.192030
December 30, 2000	1.192030
December 31, 2000	1.192030

Italy lira:

December 1, 2000	\$0.000453
December 2, 2000 .....	.000453

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for
December 2000 (continued):

Italy lira (continued):

December 3, 2000.....	\$0.000453
December 4, 2000.....	.000458
December 5, 2000.....	.000455
December 6, 2000.....	.000458
December 7, 2000.....	.000459
December 8, 2000.....	.000456
December 9, 2000.....	.000456
December 10, 2000.....	.000456
December 11, 2000.....	.000453
December 12, 2000.....	.000453
December 13, 2000.....	.000452
December 14, 2000.....	.000457
December 15, 2000.....	.000464
December 16, 2000.....	.000464
December 17, 2000.....	.000464
December 18, 2000.....	.000461
December 19, 2000.....	.000460
December 20, 2000.....	.000468
December 21, 2000.....	.000471
December 22, 2000.....	.000477
December 23, 2000.....	.000477
December 24, 2000.....	.000477
December 25, 2000.....	.000477
December 26, 2000.....	.000480
December 27, 2000.....	.000481
December 28, 2000.....	.000478
December 29, 2000.....	.000485
December 30, 2000.....	.000485
December 31, 2000.....	.000485

Luxembourg franc:

December 1, 2000.....	\$0.021728
December 2, 2000.....	.021728
December 3, 2000.....	.021728
December 4, 2000.....	.022001
December 5, 2000.....	.021825
December 6, 2000.....	.022006
December 7, 2000.....	.022040
December 8, 2000.....	.021909
December 9, 2000.....	.021909
December 10, 2000.....	.021909
December 11, 2000.....	.021743
December 12, 2000.....	.021753
December 13, 2000.....	.021703
December 14, 2000.....	.021958
December 15, 2000.....	.022263
December 16, 2000.....	.022263
December 17, 2000.....	.022263
December 18, 2000.....	.022134
December 19, 2000.....	.022067
December 20, 2000.....	.022454

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for
December 2000 (continued):

Luxembourg franc (continued):

December 21, 2000	\$0.022588
December 22, 2000 .....	.022881
December 23, 2000 .....	.022881
December 24, 2000 .....	.022881
December 25, 2000 .....	.022881
December 26, 2000 .....	.023034
December 27, 2000 .....	.023064
December 28, 2000 .....	.022948
December 29, 2000 .....	.023272
December 30, 2000 .....	.023272
December 31, 2000 .....	.023272

Netherlands guilder:

December 1, 2000	\$0.397738
December 2, 2000 .....	.397738
December 3, 2000 .....	.397738
December 4, 2000 .....	.402730
December 5, 2000 .....	.399508
December 6, 2000 .....	.402821
December 7, 2000 .....	.403456
December 8, 2000 .....	.401051
December 9, 2000 .....	.401051
December 10, 2000 .....	.401051
December 11, 2000 .....	.398011
December 12, 2000 .....	.398192
December 13, 2000 .....	.397285
December 14, 2000 .....	.401959
December 15, 2000 .....	.407540
December 16, 2000 .....	.407540
December 17, 2000 .....	.407540
December 18, 2000 .....	.405180
December 19, 2000 .....	.403955
December 20, 2000 .....	.411034
December 21, 2000 .....	.413485
December 22, 2000 .....	.418839
December 23, 2000 .....	.418839
December 24, 2000 .....	.418839
December 25, 2000 .....	.418839
December 26, 2000 .....	.421653
December 27, 2000 .....	.422197
December 28, 2000 .....	.420064
December 29, 2000 .....	.426009
December 30, 2000 .....	.426009
December 31, 2000 .....	.426009

Portugal escudo:

December 1, 2000	\$0.004372
December 2, 2000 .....	.004372
December 3, 2000 .....	.004372
December 4, 2000 .....	.004427
December 5, 2000 .....	.004391

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for
December 2000 (continued):

Portugal escudo (continued):

December 6, 2000	\$0.004428
December 7, 2000 .....	.004435
December 8, 2000 .....	.004408
December 9, 2000 .....	.004408
December 10, 2000 .....	.004408
December 11, 2000 .....	.004375
December 12, 2000 .....	.004377
December 13, 2000 .....	.004367
December 14, 2000 .....	.004418
December 15, 2000 .....	.004480
December 16, 2000 .....	.004480
December 17, 2000 .....	.004480
December 18, 2000 .....	.004454
December 19, 2000 .....	.004440
December 20, 2000 .....	.004518
December 21, 2000 .....	.004545
December 22, 2000 .....	.004604
December 23, 2000 .....	.004604
December 24, 2000 .....	.004604
December 25, 2000 .....	.004604
December 26, 2000 .....	.004635
December 27, 2000 .....	.004641
December 28, 2000 .....	.004617
December 29, 2000 .....	.004683
December 30, 2000 .....	.004683
December 31, 2000 .....	.004683

South Korea won:

December 1, 2000	\$0.000826
December 2, 2000 .....	.000826
December 3, 2000 .....	.000826
December 4, 2000 .....	.000820
December 5, 2000 .....	.000831
December 6, 2000 .....	.000833
December 7, 2000 .....	.000833
December 8, 2000 .....	.000839
December 9, 2000 .....	.000839
December 10, 2000 .....	.000839
December 11, 2000 .....	.000845
December 12, 2000 .....	.000840
December 13, 2000 .....	.000839
December 14, 2000 .....	.000831
December 15, 2000 .....	.000828
December 16, 2000 .....	.000828
December 17, 2000 .....	.000828
December 18, 2000 .....	.000829
December 19, 2000 .....	.000827
December 20, 2000 .....	.000821
December 21, 2000 .....	.000814
December 22, 2000 .....	.000808
December 23, 2000 .....	.000808

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for
December 2000 (continued):

South Korea won (continued):

December 24, 2000	\$0.000808
December 25, 2000 .....	.000808
December 26, 2000 .....	.000798
December 27, 2000 .....	.000794
December 28, 2000 .....	.000798
December 29, 2000 .....	.000789
December 30, 2000 .....	.000789
December 31, 2000 .....	.000789

Spain peseta:

December 1, 2000	\$0.005268
December 2, 2000 .....	.005268
December 3, 2000 .....	.005268
December 4, 2000 .....	.005334
December 5, 2000 .....	.005291
December 6, 2000 .....	.005335
December 7, 2000 .....	.005344
December 8, 2000 .....	.005312
December 9, 2000 .....	.005312
December 10, 2000 .....	.005312
December 11, 2000 .....	.005271
December 12, 2000 .....	.005274
December 13, 2000 .....	.005262
December 14, 2000 .....	.005324
December 15, 2000 .....	.005398
December 16, 2000 .....	.005398
December 17, 2000 .....	.005398
December 18, 2000 .....	.005366
December 19, 2000 .....	.005350
December 20, 2000 .....	.005444
December 21, 2000 .....	.005476
December 22, 2000 .....	.005547
December 23, 2000 .....	.005547
December 24, 2000 .....	.005547
December 25, 2000 .....	.005547
December 26, 2000 .....	.005585
December 27, 2000 .....	.005592
December 28, 2000 .....	.005564
December 29, 2000 .....	.005642
December 30, 2000 .....	.005642
December 31, 2000 .....	.005642

Taiwan N.T. dollar:

December 1, 2000	\$0.030257
December 2, 2000 .....	.030257
December 3, 2000 .....	.030257
December 4, 2000 .....	.030257
December 5, 2000 .....	.030257
December 6, 2000 .....	.030257
December 7, 2000 .....	.030230
December 8, 2000 .....	.030248

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for December 2000 (continued):

Taiwan N.T. dollar (continued):

December 9, 2000	\$0.030248
December 10, 2000 .....	.030248
December 11, 2000 .....	.030211
December 12, 2000 .....	.030248
December 13, 2000 .....	.030157
December 14, 2000 .....	.030211
December 15, 2000 .....	.030211
December 16, 2000 .....	.030211
December 17, 2000 .....	.030211
December 18, 2000 .....	.030211
December 19, 2000 .....	.030211
December 20, 2000 .....	.030139
December 21, 2000 .....	.030120
December 22, 2000 .....	.030120
December 23, 2000 .....	.030120
December 24, 2000 .....	.030120
December 25, 2000 .....	.030120
December 26, 2000 .....	.030120
December 27, 2000 .....	.030075
December 28, 2000 .....	.030120
December 29, 2000 .....	.030148
December 30, 2000 .....	.030148
December 31, 2000 .....	.030148

RICHARD B. LAMAN,
Chief,
Customs Information Exchange.

(T.D. 01-04)

FOREIGN CURRENCIES

CERTIFIED RATES OF FOREIGN EXCHANGE: FIRST QUARTER, 2001

Listed below are the buying rates certified for the quarter to the Secretary of the Treasury by the Federal Reserve Bank of New York under provision of 31 U.S.C. 5151. These quarterly rates are applicable throughout the quarter except when the certified daily rates vary by 5% or more. Such daily variances are published by the CIE on a weekly basis.

FOREIGN CURRENCIES—Certified rates of foreign exchange: first quarter,
2001 (continued):

QUARTER BEGINNING: JANUARY 1, 2001 AND ENDING MARCH 31, 2001

COUNTRY	CURRENCY	U.S. DOLLARS
Australia	Dollar	\$0.559200
Brazil	Real	0.515996
Canada	Dollar	0.668315
China, P.R.	Yuan	0.120804
Denmark	Krone	0.126831
Hong Kong	Dollar	0.128205
India	Rupee	0.021395
Iran	Rial	N/A
Israel	New Sheqel	N/A
Japan	Yen	0.008716
Malaysia	Ringgit	0.263158
Mexico	New Peso	0.102944
New Zealand	Dollar	0.443200
Norway	Krone	0.114155
Philippines	Peso	N/A
Singapore	Dollar	0.575705
South Africa	Rand	0.132118
Sri Lanka	Rupee	0.012107
Sweden	Krona	0.106213
Switzerland	Franc	0.622084
Thailand	Baht	0.022836
United Kingdom	Pound Sterling	1.497700
Venezuela	Bolivar	0.001427

Dated: January 9, 2001.

RICHARD B. LAMAN,
Chief,
Customs Information Exchange.

(T.D. 01-05)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATE FOR DECEMBER 2000

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision *** for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs

FOREIGN CURRENCIES—Variances from quarterly rates for December 2000
(continued):

purposes to convert such currency into currency of United States,
conversion shall be at the following rates:

Holiday(s): December 25, 2000.

Brazil real:

December 1, 2000	\$0.504796
December 2, 2000 .....	.504796
December 3, 2000 .....	.504796
December 4, 2000 .....	.504032
December 5, 2000 .....	.510204
December 6, 2000 .....	.508388
December 7, 2000 .....	.506586
December 8, 2000 .....	.507872
December 9, 2000 .....	.507872
December 10, 2000 .....	.507872
December 11, 2000 .....	.509684
December 12, 2000 .....	.508130
December 13, 2000 .....	.508906
December 14, 2000 .....	.508906
December 15, 2000 .....	.508906
December 16, 2000 .....	.508906
December 17, 2000 .....	.508906
December 18, 2000 .....	.512033
December 19, 2000 .....	.511509
December 20, 2000 .....	.510725
December 21, 2000 .....	.512033
December 22, 2000 .....	.510725
December 23, 2000 .....	.510725
December 24, 2000 .....	.510725
December 25, 2000 .....	.510725
December 26, 2000 .....	.509944
December 27, 2000 .....	.510204
December 28, 2000 .....	.511509
December 29, 2000 .....	.512558
December 30, 2000 .....	.512558
December 31, 2000 .....	.512558

Denmark krone:

December 26, 2000	\$0.124533
December 27, 2000 .....	.124704
December 29, 2000 .....	.125878
December 30, 2000 .....	.125878
December 31, 2000 .....	.125878

Japan yen:

December 28, 2000	\$0.008724
December 29, 2000 .....	.008745
December 30, 2000 .....	.008745
December 31, 2000 .....	.008745

FOREIGN CURRENCIES—Variances from quarterly rates for December 2000
(continued):

New Zealand dollar:

December 6, 2000	\$0.425000
December 7, 2000 .....	.427200
December 8, 2000 .....	.427400
December 9, 2000 .....	.427400
December 10, 2000 .....	.427400
December 15, 2000 .....	.427900
December 16, 2000 .....	.427900
December 17, 2000 .....	.427900
December 18, 2000 .....	.431000
December 19, 2000 .....	.429200
December 20, 2000 .....	.435600
December 21, 2000 .....	.438400
December 22, 2000 .....	.440500
December 23, 2000 .....	.440500
December 24, 2000 .....	.440500
December 25, 2000 .....	.440500
December 26, 2000 .....	.442000
December 27, 2000 .....	.443500
December 28, 2000 .....	.439800
December 29, 2000 .....	.442300
December 30, 2000 .....	.442300
December 31, 2000 .....	.442300

South Africa rand:

December 1, 2000	\$0.130634
December 2, 2000 .....	.130634
December 3, 2000 .....	.130634
December 4, 2000 .....	.130804
December 5, 2000 .....	.130634
December 6, 2000 .....	.131891
December 7, 2000 .....	.131277
December 8, 2000 .....	.130890
December 9, 2000 .....	.130890
December 10, 2000 .....	.130890
December 11, 2000 .....	.130412
December 12, 2000 .....	.129149
December 13, 2000 .....	.128659
December 14, 2000 .....	.129241
December 15, 2000 .....	.130039
December 16, 2000 .....	.130039
December 17, 2000 .....	.130039
December 18, 2000 .....	.130208
December 19, 2000 .....	.129618
December 20, 2000 .....	.130548
December 21, 2000 .....	.131062
December 22, 2000 .....	.132144
December 23, 2000 .....	.132144
December 24, 2000 .....	.132144
December 25, 2000 .....	.132144
December 28, 2000 .....	.132231
December 29, 2000 .....	.132100

FOREIGN CURRENCIES—Variances from quarterly rates for December 2000
(continued):

South Africa rand (continued):

December 30, 2000	\$0.132100
December 31, 2000 .....	.132100

Switzerland franc:

December 26, 2000	\$0.611920
December 27, 2000 .....	.608458
December 28, 2000 .....	.607903
December 29, 2000 .....	.617208
December 30, 2000 .....	.617208
December 31, 2000 .....	.617208

RICHARD B. LAMAN,
Chief,
Customs Information Exchange.

U.S. Customs Service

January 10, 2001

Department of the Treasury
Office of the Commissioner of Customs
Washington, D.C.

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs field offices to merit publication in the CUSTOMS BULLETIN.

STUART P. SEIDEL,
*Assistant Commissioner,
Office of Regulations and Rulings.*

U.S. Customs Service

General Notice

PROPOSED REVOCATION OF RULING LETTERS AND TREATMENT RELATING TO TARIFF CLASSIFICATION OF TEXTILE BOOK COVERS

AGENCY: U.S. Customs Service; Department of the Treasury.

ACTION: Notice of proposed revocation of tariff classification ruling letters and treatment relating to the classification of textile book covers.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), this notice advises interested parties that Customs intends to modify two rulings relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of textile book covers. Similarly, Customs proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before February 23, 2001.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Textiles Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at the same location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Shari Suzuki, Textiles Branch: (202) 927-2339.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **"informed compliance"** and **"shared responsibility."** These con-

cepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that Customs intends to revoke two rulings relating to the tariff classification of textile book covers. Although in this notice Customs is specifically referring to one New York Ruling Letter (NY) and one Port Ruling Letter (PD), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to those identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise Customs during this notice period. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs intends to revoke any treatment previously accorded by Customs to substantially identical merchandise. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUS. Any person involved with substantially identical merchandise should advise Customs during this notice period. An importer's failure to advise Customs of substantially identical merchandise or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or their agents for importations of merchandise subsequent to this notice.

In NY C84799, dated March 11, 1998, and PD D80149, dated August 11, 1998, textile book covers were classified under heading 4202, HTSUS, which provides for *inter alia* travel, sports and similar bags. NY C84799 is set forth as "Attachment A" to this document. PD D80149 is set forth as "Attachment B" to this document.

Customs has determined that textile book covers are not classifiable under heading 4202, HTSUS, which provides for *inter alia* travel,

sports and similar bags, as well as attache cases, briefcases, school satchels and similar containers. The textile book covers are classifiable under heading 6307, which provides for other made up textile articles. Proposed HQ 964204 revoking NY C84799 is set forth as "Attachment C" to this document. Proposed HQ 962235 revoking PD D80149 is set forth as "Attachment D" to this document.

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to revoke NY C84799 and PD D80149, as appropriate, and any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed HQ 964204 and HQ 962235, *supra*. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: January 9, 2001.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

March 11, 1998
CLA-2-42:RR:NC:TA:341 C84799
Category: Classification
Tariff No. 4202.92.3031; 4202.92.2000

MR. COREY KLESTADT
TRANS-WORLD SHIPPING CORP.
53 Park Place
New York, NY 10007

Re: The tariff classification of a carry case from China.

DEAR MR. KLESTADT:

In your letter dated February 12, 1998, on behalf of Hi-Performance Co. Ltd., you requested a classification ruling for a carry case.

The sample submitted, described as a "book cover", is a carrying case of a kind similar to those of HTS 4202. The case is designed to contain multi personal effects as well as a book. The item is not primarily a book cover. The item features double zippered compartments on either side. When opened, one side features a full width mesh zippered storage pocket and a pad holder. The other side is designed to contain a book. The front and rear exterior features full-width open storage pockets. The item is carried by means of double webbed textile carrying handles. The case is manufactured of an exterior surface of a polyester/ramie woven fabric.

Your sample is being returned as you requested.

The applicable subheading for the carry case if in chief weight of polyester will be 4202.92.3031, HTSUSA, which provides for travel, sports and similar bags, with outer surface of textile materials, other, of man-made fibers, other. The duty rate will be 19 percent *ad valorem*.

The applicable subheading for the carry case if in chief weight of ramie will be 4202.92.2000, Harmonized Tariff Schedule of the United States (HTS), which provides for travel, sports and similar bags, with outer surface of textile materials, of vegetable fibers and not of pile or tufted construction, other. The duty rate will be 6.2 percent *ad valorem*.

Items classifiable under 4202.92.3031 fall within textile category designation 670. Items classifiable under 4202.92.2000 fall within textile category designation 870. Based upon international textile trade agreements products of China are subject to quota and the requirement of a visa.

The designated textile and apparel categories may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes. To obtain the most current information available, we suggest that you check, close to the time of shipment, the Status Report on Current Import Quotas (Restraint Levels), an internal issuance of the U.S. Customs Service, which is available for inspection at your local Customs office.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Kevin Gorman at 212-466-5893.

ROBERT B. SWIERUPSKI,
Director,
National Commodity Specialist Division.

[ATTACHMENT B]

August 11, 1998
CLA-2-42:K:TC:B6: G21 D80149
Category: Classification
Tariff No. 4202.92.1500

MR. RONALD K. DUDLEY
PHOENIX INTERNATIONAL FREIGHT SERVICES, LTD.
241 5 Director's Row, Suite C
Indianapolis, IN 46241

Re: The tariff classification of a carry case designed to contain a bible and other accessories from Korea.

DEAR MR. DUDLEY:

In your letter dated July 14, 1998, you requested a classification ruling on behalf of your importer, Dickson's, Inc., 709 'B' Avenue East, Seymour, IN 47274.

The submitted sample, Carry All Canvas Bible Cover w/Eagle Embroidery - BCT series, is designed with a compartment to carry a bible and a separate compartment to carry cards, papers and writing accessories. This case closes with a

zipper and is carried by two self-fabric handles.

The applicable subheading for the carry case will be 4202.92.1500, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), which provides for travel, sports and similar bags, with outer surface of textile materials, of vegetable fibers and not of pile or tufted construction, of cotton. The duty rate will be 6.8% *ad valorem*.

Items classifiable under 4202.92.1500, HTSUSA, fall within textile category designation 369. Based upon international bilateral agreements, products of Korea are subject to visa requirements and quota restraints.

The designated textile and apparel category may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the *Status Report On Current Import Quotas (Restraint Levels)*, an internal issuance of the U.S. Customs Service, which is available for inspection at your local Customs office.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations.

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JOHN J. MARTUZE,
Area Director,
JFK Airport.

[ATTACHMENT C]

CLA-2 RR:CR:TE 964204 SS
Category: Classification
Tariff No. 6307.90.9989

MR. COREY KLESTADT
TRANS-WORLD SHIPPING CORP.
53 Park Place
New York, NY 10007

Re: Classification of Book Cover; Heading 4202, HTSUSA; Explanatory Note (c) to Heading 4202, HTSUSA; Heading 6307, HTSUSA.

DEAR MR. KLESTADT:

This letter is pursuant to Headquarters' reconsideration of New York Ruling (NY) C84799, dated March 11, 1998, issued to you on behalf of your client, Hi-Performance Co. Ltd., regarding the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of a book cover manufactured in China.

This letter is to inform you that after review of that ruling, it has been determined that the classification of the book cover under heading 4202, HTSUSA, is incorrect. As such, NY C84799 is revoked pursuant to the analysis that follows below.

Facts:

The sample described in NY C84799 is a book cover designed to contain one book. The item features double zippered compartments on either side. When opened, one side features a full width mesh zippered storage pocket and a pad holder. The other side is designed to contain a book. The front and rear exterior feature full width pockets. The item is carried by means of double webbed textile carrying handles. It appears that classification of the item under heading 4202, HTSUSA, was based on the fact that it was considered to be a carrying case that could contain "multi personal effects" rather than a book cover. However, it is the belief of this office that the item is primarily a book cover.

Issue:

What is the proper classification for the book cover?

Law and Analysis:

Classification of goods under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is governed by the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied. The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System, which represent the official interpretation of the tariff at the international level, facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI.

The possible headings under consideration are: heading 4202, HTSUSA, which covers attache cases, briefcases and similar containers; and heading 6307, HTSUSA, which covers other made up textile articles.

Heading 4202, HTSUSA, provides for, *inter alia*, attache cases, briefcases, and similar containers. The exemplars named in heading 4202, HTSUSA, have in common the purpose of organizing, storing, protecting, and carrying various items. However, EN (c) to heading 4202, HTSUSA, indicates that the heading does not cover articles which, although they may have the character of containers, are not similar to those enumerated in the heading and includes the following items as examples: **book covers**, reading jackets, file-covers, and document-jackets. EN (c) further states that such articles fall in heading 4205, HTSUSA, if made of (or covered with) leather or composition leather, and in other chapters if made of (or covered with) other materials.

Heading 6307, HTSUSA, provides for other made up textile articles. As stated above, EN (c) directs that book covers be classified in heading 4205, HTSUSA, if made of leather and in other chapters if made of other materials. Heading 4205, HTSUSA, is the residual provision for leather articles. Similarly, heading 6307, HTSUSA, is the residual provision for other textile articles. Accordingly, a book cover made of textile material that is excluded from heading 4202, HTSUSA, would be classified under heading 6307, HTSUSA.

Since the book cover has areas for the organization, storage and protection of various items and a handle that allows for easy carrying, it appears to have characteristics common to the enumerated exemplars of heading 4202, HTSUSA. However, EN (c) to heading 4202, HTSUSA, indicates that "book covers" are specifically excluded from heading 4202, HTSUSA. Thus, the real issue in this case is whether or not the subject merchandise is a book cover as contemplated by the EN or something more similar to the exemplars of heading 4202, HTSUSA. In order to determine whether the book cover is excluded from or classified under heading 4202, HTSUSA, we must decide whether it merely has the character of a container, or whether its purpose is to organize, store, protect, and carry various items and is thus similar to the articles enumerated in heading 4202, HTSUSA.

Although the book cover at issue has the character of a container, with perhaps more features than a simple book cover, it does not have the requisite physical

attributes Customs has found common to similarly sized containers of heading 4202, HTSUSA, such as significant carrying capacity. The merchandise possesses the character of a book cover or jacket in that it is primarily designed and specifically constructed with a zippered interior compartment in which a book may be inserted. This interior compartment is specially sized to accommodate or fit a single book, not numerous documents, papers or other contents. The jacket or cover feature is the focal point of the product and is preeminent in a consumer's decision to purchase the item. Additionally, the book cover serves to organize and perhaps protect small and/or flat items. The bulk of the article is comprised of space designed to hold a book. The remaining compartment is not designed to store, protect, and carry additional items such as newspapers, a small umbrella and/or other objects normally carried in an attache case or briefcase. The compartment does not have gussets and cannot be expanded to permit the storage of bulky, large items; rather, the compartment is flat in construction and is suitable only for small items that are ancillary to the predominant jacket/cover feature. Although the subject book cover may have more features than a simple book cover, it still retains its fundamental character, functions principally as a cover or jacket for a book, and is marketed and sold as such. The added features merely serve to enhance its primary purpose, which is to provide a convenient and organized method by which to study a book. Accordingly, we find that the subject book cover merely has the character of a container and is not similar to the exemplars listed in heading 4202, HTSUSA. This ruling is consistent with Headquarters Ruling Letter (HQ) 962227, dated June 7, 1999 and HQ 962757, dated June 21, 2000. For other rulings excluding jacket-like articles from heading 4202, HTSUSA, see HQ 956940, dated November 25, 1994; HQ 960989, dated July 20, 1998; and HQ 961418, dated August 4, 1998.

Textile book covers are classified under subheading 6307.90.9989, HTSUSA. See New York Ruling Letter (NY) 851233, dated April 24, 1990; NY 816450, dated November 21, 1995; NY A84808, dated June 25, 1996; NY C83995, dated February 20, 1998; NY C86045, dated April 3, 1998; and NY D80906, dated September 1, 1998. Since at least 1996, Customs has been classifying book covers incorporating outer pockets, interior pockets, handles, pen-holder loops and extensive decorative features under subheading 6307.90.99, HTSUSA. See NY A81442, dated March 28, 1996; NY A82707, dated April 25, 1996; NYA83330, dated May 15, 1996; NY A86713, dated August 22, 1996; NY A87823, dated October 1, 1996; NY A88270, dated October 11, 1996; NY C80069, dated October 20, 1997; NY B85128, dated May 15, 1997; NY B86953, dated July 8, 1997; NY C86501, dated April 20, 1998; NY E87483, dated October 8, 1999; NY E82659, dated June 9, 1999 and NY F81481, dated January 13, 2000. The subject book cover appears to be similar to the book covers classified by Customs under heading 6307, HTSUSA, and we find no reason to depart from the established precedent of classifying textile book covers under heading 6307, HTSUSA.

Holding:

The book cover is classified in subheading 6307.90.9989, HTSUSA, the provision for "Other made up articles, including dress patterns: Other: Other: Other: Other." The general column one duty rate is seven percent (7%) *ad valorem*.

NY C84799 is hereby revoked.

JOHN DURANT,
Director,
Commercial Rulings Division.

[ATTACHMENT D]

CLA-2 RR:CR:TE 962235 SS

Category: Classification

Tariff No. 6307.90.9989

MR. RONALD K. DUDLEY
PHOENIX INTERNATIONAL FREIGHT SERVICES, LTD.
2415 Director's Row, Suite C
Indianapolis, IN 46241

Re: Classification of Book Cover; Heading 4202, HTSUSA; Explanatory Note (c) to
Heading 4202, HTSUSA; Heading 6307, HTSUSA.

DEAR MR. DUDLEY:

This letter is pursuant to Headquarters' reconsideration of Port Ruling (PD) D80149, dated August 11, 1998, issued to you on behalf of your client, Dickson's, Inc., regarding the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of a book cover manufactured in Korea.

This letter is to inform you that after review of that ruling, it has been determined that the classification of the book cover under heading 4202.92.1500, HTSUSA, is incorrect. As such, PD D80149 is revoked pursuant to the analysis that follows below.

Facts:

The book cover is described in PD D80149 as follows:

The submitted sample, Carry All Canvas Bible Cover w/Eagle Embroidery - BCT series, is designed with a compartment to carry a bible and a separate compartment to carry cards, papers and writing accessories. This case closes with a zipper and is carried by two self-fabric handles.

As the name indicates, the book cover is designed to contain a book. There is nothing that limits the use of the product to bibles and we note that any other type of book may be used with the product.

Issue:

What is the proper classification for the book cover?

Law and Analysis:

Classification of goods under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is governed by the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied. The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System, which represent the official interpretation of the tariff at the international level, facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI.

The possible headings under consideration are: heading 4202, HTSUSA, which covers attache cases, brief cases and similar containers; and heading 6307, HTSUSA, which covers other made up textile articles.

Heading 4202, HTSUSA, provides for, *inter alia*, attache cases, briefcases, and similar containers. The exemplars named in heading 4202, HTSUSA, have in common the purpose of organizing, storing, protecting, and carrying various items. However, EN (c) to heading 4202, HTSUSA, indicates that the heading does not cover articles which, although they may have the character of containers, are not

similar to those enumerated in the heading and includes the following items as examples: **book covers**, reading jackets, file-covers, and document-jackets. EN (c) further states that such articles fall in heading 4205, HTSUSA, if made of (or covered with) leather or composition leather, and in other chapters if made of (or covered with) other materials.

Heading 6307, HTSUSA, provides for other made up textile articles. As stated above, EN (c) directs that book covers be classified in heading 4205, HTSUSA, if made of leather and in other chapters if made of other materials. Heading 4205, HTSUSA, is the residual provision for leather articles. Similarly, heading 6307, HTSUSA, is the residual provision for other textile articles. Accordingly, a book cover made of textile material that is excluded from heading 4202, HTSUSA, would be classified under heading 6307, HTSUSA.

Since the book cover has areas for the organization, storage and protection of various items and a handle that allows for easy carrying, it appears to have characteristics common to the enumerated exemplars of heading 4202, HTSUSA. However, EN (c) to heading 4202, HTSUSA, indicates that "book covers" are specifically excluded from heading 4202, HTSUSA. Thus, the real issue in this case is whether or not the subject merchandise is a book cover as contemplated by the EN or something more similar to the exemplars of heading 4202, HTSUSA. In order to determine whether the book cover is excluded from or classified under heading 4202, HTSUSA, we must decide whether it merely has the character of a container, or whether its purpose is to organize, store, protect, and carry various items and is thus similar to the articles enumerated in heading 4202, HTSUSA.

Although the book cover at issue has the character of a container, with perhaps more features than a simple book cover, it does not have the requisite physical attributes Customs has found common to similarly sized containers of heading 4202, HTSUSA, such as significant carrying capacity. The merchandise possesses the character of a book cover or jacket in that it is primarily designed and specifically constructed with a zippered interior compartment in which a bible or book may be inserted. This interior compartment is specially sized to accommodate or fit a single bible or book, not numerous documents, papers or other contents. The jacket or cover feature is the focal point of the product and is preeminent in a consumer's decision to purchase the item. Additionally, the book cover serves to organize and perhaps protect small and/or flat items. The bulk of the article is comprised of space designed to hold a bible or book. The remaining compartment is not designed to store, protect, and carry additional items such as newspapers, a small umbrella and/or other objects normally carried in an attache case or briefcase. The compartment does not have gussets and cannot be expanded to permit the storage of bulky, large items; rather, the compartment is flat in construction and is suitable only for small items that are ancillary to the predominant jacket/cover feature. Although the subject book cover may have more features than a simple book cover, it still retains its fundamental character, functions principally as a cover or jacket for a bible or book, and is marketed and sold as such. The added features merely serve to enhance its primary purpose, which is to provide a convenient and organized method by which to study a bible or book. Accordingly, we find that the subject book cover merely has the character of a container and is not similar to the exemplars listed in heading 4202, HTSUSA. This ruling is consistent with Headquarters Ruling Letter (HQ) 962227, dated June 7, 1999 and HQ 962757, dated June 21, 2000. For other rulings excluding jacket-like articles from heading 4202, HTSUSA, see HQ 956940, dated November 25, 1994; HQ 960989, dated July 20, 1998; and HQ 961418, dated August 4, 1998.

Textile book covers are classified under subheading 6307.90.9989, HTSUSA. See New York Ruling Letter (NY) 851233, dated April 24, 1990; NY 816450, dated November 21, 1995; NY A84808, dated June 25, 1996; NY C83995, dated February 20, 1998; NY C86045, dated April 3, 1998; and NY D80906, dated September 1, 1998. Since at least 1996, Customs has been classifying "bible book covers" incorporating outer pockets, interior pockets, handles, pen-holder loops and extensive decorative features under subheading 6307.90.99, HTSUSA. See NY A81442, dated March 28, 1996; NY A82707, dated April 25, 1996; NYA83330, dated May 15, 1996;

NY A86713, dated August 22, 1996; NY A87823, dated October 1, 1996; NY A88270, dated October 11, 1996; NY C80069, dated October 20, 1997; NY B85128, dated May 15, 1997; NY B86953, dated July 8, 1997; NY C86501, dated April 20, 1998; NY E87483, dated October 8, 1999; NY E82659, dated June 9, 1999 and NY F81481, dated January 13, 2000. The subject book cover appears to be similar to the book covers classified by Customs under heading 6307, HTSUSA, and we find no reason to depart from the established precedent of classifying textile book covers under heading 6307, HTSUSA.

Holding:

The book cover is classified in subheading 6307.90.9989, HTSUSA, the provision for "Other made up articles, including dress patterns: Other: Other: Other: Other: Other." The general column one duty rate is seven percent (7%) *ad valorem*.

PD 80149 is hereby revoked.

JOHN DURANT,
Director,
Commercial Rulings Division.

PROPOSED MODIFICATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF STEEL STRAINERS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed modification of ruling letter, and revocation of treatment relating to tariff classification of steel strainers.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, as amended, (19 U.S.C. 1625(c)), this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of steel strainers under the Harmonized Tariff Schedule of the United States ("HTSUS"). Customs also intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before February 23, 2001.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Commercial Rulings Division, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the same address.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, General Classification Branch, (202) 927-2388.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **"informed compliance"** and **"shared responsibility."** These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of steel strainers. Although in this notice Customs is specifically referring to one ruling, NY C87841, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule. Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise Customs of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

In NY C87841 dated May 29, 1998, set forth as Attachment A to this document, among other articles not relevant herein, Customs classified certain steel strainers in subheading 8205.51.30, Harmonized Tariff Schedule of the United States ("HTSUS"), which covers: "Handtools ... not elsewhere specified or included ... : Other handtools ... : Household tools ... : Of iron or steel: ... Other." It is now Customs position that the steel strainers are classified in subheading 7323.99.90, HTSUS, as: "Table, kitchen or other household articles and parts thereof, of iron or steel ... : Other: ... Other: ... Not coated or plated with precious metal: ... Other: ... Other."

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to modify NY C87841 and any other ruling not specifically identified in order to reflect the proper classification of the steel strainers pursuant to the analysis set forth in proposed HQ 964751, set forth as Attachment B to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

Dated: January 4, 2001.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

May 29, 1998

CLA-2-73:RR:NC:MM:113 C87841

Category: Classification

Tariff No. 0802.90.9890; 1102.30.0000; 3206.49.5000; 7323.91.5000;
7323.99.7000; 7323.99.9030; 7615.19.7030; 7615.19.7060;
7615.19.9000; 8205.51.3030; 8215.99.3500.

MR. GHANSHYAM R. PATEL
MIDWEST SWAMINARAYAN TEMPLE
1505 Bates Lane
Schaumburg, IL 60193

Re: The tariff classification of assorted articles from India.

DEAR MR. PATEL:

In your letter dated May 6, 1997, you requested a tariff classification ruling.

The merchandise consists of various articles that will be used in preparing a meal. The items include aluminum bowls, plates, pans, pots and covers, iron frying

pans, steel frying pans, plates and strainers with handles, stainless steel ladles and serving spoons, white and pink rice flour, vermilion, cotton string, and beetle nuts.

The applicable subheading for the aluminum bowls will be 7615.19.7060, Harmonized Tariff Schedule of the United States (HTS), which provides for table, kitchen or other household articles and parts thereof, of aluminum, other, cooking and kitchen ware, not enameled or glazed and not containing nonstick interior finishes, other, other. The duty rate will be 3.3 percent *ad valorem*.

Articles classifiable under subheading 7615.19.7060, HTS, which are products of India are entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations.

The applicable subheading for the aluminum plates will be 7615.19.9000, Harmonized Tariff Schedule of the United States (HTS), which provides for table, kitchen or other household articles and parts thereof, of aluminum, other, other. The duty rate will be 3.2 percent *ad valorem*.

Articles classifiable under subheading 7615.19.9000, HTS, which are products of India are entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations.

The applicable subheading for the aluminum pans, pots and lids will be 7615.19.7030, Harmonized Tariff Schedule of the United States (HTS), which provides for table, kitchen or other household articles and parts thereof, of aluminum, other, cooking and kitchen ware, not enameled or glazed and not containing nonstick interior finishes, other, cooking ware. The duty rate will be 3.3 percent *ad valorem*.

Articles classifiable under subheading 7615.19.7030, HTS, which are products of India are entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations.

The applicable subheading for the iron fry pan will be 7323.91.5000, Harmonized Tariff Schedule of the United States (HTS), which provides for table, kitchen or other household articles and parts thereof, of iron or steel, other, of cast iron, not enameled, other. The duty rate will be 5.3 percent *ad valorem*.

Articles classifiable under subheading 7323.91.5000, HTS, which are products of India are entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations.

The applicable subheading for the steel fry pan will be 7323.99.7000, Harmonized Tariff Schedule of the United States (HTS), which provides for table, kitchen or other household articles and parts thereof, of iron or steel, other, other, not coated or plated with precious metal, other, cookingware. The duty rate will be 5.3 percent *ad valorem*.

Articles classifiable under subheading 7323.99.7000, HTS, which are products of India are entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations.

The applicable subheading for the steel plates will be 7323.99.9030, Harmonized Tariff Schedule of the United States (HTS), which provides for table, kitchen or other household articles and parts thereof, of iron or steel, other, other, not coated or plated with precious metal, other, kitchen or tableware suitable for food or drink contact. The duty rate will be 3.4 percent *ad valorem*.

Articles classifiable under subheading 7323.99.9030, HTS, which are products of India are entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations.

The applicable subheading for the stainless steel ladles and serving spoons will be 8215.99.3500, Harmonized Tariff Schedule of the United States (HTS), which provides for spoons and ladles, with stainless steel handles, other. The duty rate will be 7.1 percent *ad valorem*.

The applicable subheading for the steel strainers will be 8205.51.3030, Harmonized Tariff Schedule of the United States (HTS), which provides for handtools not elsewhere specified or included and parts thereof, of base metal, household tools, of iron and steel, other, kitchen and table implements. The duty rate will be 4 percent *ad valorem*.

Articles classifiable under subheading 8205.51.3030, HTS, which are products of

India are entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations.

The applicable subheading for the vermillion will be 3206.49.5000, Harmonized Tariff Schedule of the United States (HTS), which provides for other coloring matter, preparations as specified in note 3 to this chapter, other than those of heading 3203, 3204 or 3205; inorganic products of a kind used as luminophores, whether or not chemically defined, other coloring matter and other preparations, other, other. The duty rate will be 3.1 percent *ad valorem*.

The applicable subheading for the rice flour will be 1102.30.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for rice flour. The duty rate will be 0.13 cents per kilogram.

Articles classifiable under subheading 1102.30.0000, HTS, which are products of India are entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations.

The applicable subheading for the beetle nuts will be 0802.90.9890, Harmonized Tariff Schedule of the United States (HTS), which provides for other nuts, fresh or dried, whether or not shelled or peeled, other, other, shelled, other, other. The duty rate will be 7 cents per kilogram.

Beetle nuts may be subject to the requirements of the Federal Food, Drug, and Cosmetic Act, which is administered by the U.S. Food and Drug Administration. You may contact them at 5600 Fishers Lane, Rockville, Maryland 20857, telephone number (301) 443-6553.

Beetle nuts may also be subject to the regulations of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Division, U.S. Department of Agriculture. You may contact them at 4700 River Road Unit 139, Riverdale, Maryland 20737, telephone number (301) 734-6799.

In order to classify the red cotton string, we need additional information. Is the string made of single yarn or multiple yarn? Is it of combed or uncombed fiber? What is the metric number of the string (measurement of thickness)? How much does each ball, skein or length of string weigh?

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist James Smyth at 212-466-2084.

ROBERT B. SWIERUPSKI,

Director,

National Commodity Specialist Division.

[ATTACHMENT B]

CLA-2 RR:CR:GC 964751 GOB

Category: Classification

Tariff No. 7323.93.00

MR. GHANSHYAM R. PATEL
MIDWEST SWAMINARAYAN TEMPLE
1505 Bates Lane
Schaumburg, IL 60193

Re: NY C87841 modified; Steel strainers.

DEAR MR. PATEL:

This letter is with respect to New York Ruling Letter ("NY") C87841, issued to you by the Customs National Commodity Specialist Division on May 29, 1998.

In that ruling, among other articles not relevant herein, certain steel strainers were classified in subheading 8205.51.30, Harmonized Tariff Schedule of the United States ("HTSUS"), which covers: "Handtools ... not elsewhere specified or included ... : Other handtools ... : Household tools ... : Of iron or steel: ... Other." We have reviewed that classification and have determined that it is incorrect. This ruling sets forth the correct classification for this article. The classification set forth for the other articles in NY C87841 is not affected by this ruling.

Facts:

Your ruling request of May 6, 1998, describes the steel strainers as follows: "Steel Strainers with handle 10" to 12" sizes [and] Steel Strainers with handle 7" to 9" sizes."

Issue:

What is the tariff classification of the steel strainers?

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") are the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

7323 Table, kitchen or other household articles and parts thereof, of iron or steel ... :

Other:

7323.99

Other:

Not coated or plated with
precious metal:

Other:

7323.99.90

Other

* * * * *

8205 Handtools ... not elsewhere specified or included ... :

Other handtools ... :

8205.51

Household tools ... :

Of iron or steel:

8205.51.30

Other (including parts)

Explanatory Note ("EN") 73.23 provides, in pertinent part, as follows:

This group comprises a wide range of iron or steel articles, **not more specifically covered** by other headings of the Nomenclature, used for table, kitchen or other household purposes ... These articles may be ... of iron or steel ... wire grill, wire cloth, etc ...

The group includes:

(1) **Articles for kitchen use** such as saucepans, steamers, pressure cookers, preserving pans ...; basins, frying pans, roasting or baking dishes and plates; ... kettles, collanders ... salad washers ... funnels.

The heading **excludes**:

...
(d) Household articles having the character of tools, *e.g.*, shovels of all kinds; cork-screws; cheese graters, etc.; larding needles; can openers; nut-crackers; bottle openers ... vegetable pressers, vegetable mashers (**Chapter 82**).
[All emphasis in original.]

The Explanatory Note to Chapter 82 provides, in pertinent part, as follows:

This Chapter covers certain specific kinds of base metal articles, of the nature of tools, implements, cutlery, tableware, etc., which are excluded from the preceding Chapters of Section XV [Section XV includes Chapters 72-83] ... In general, the Chapter covers tools which can be used independently in the hand ...

Explanatory Note 82.05 (E) provides, in pertinent part, as follows:

(E) **Other hand tools** ...

This group includes:

(1) A number of household articles ... having the character of tools and accordingly not proper to heading 73.23, such as:

Flat irons ... curling irons; bottle openers, cork screws, simple can openers (including keys); nut crackers; cherry stoners (spring type); button hooks; shoe horns; "steels" and other knife sharpeners of metal; pastry cutters and jagers; graters for cheese, etc.; "lightening" mincers (with cutting wheels); cheese slicers, vegetable slicers; waffling irons; cream or egg whisks, egg slicers; butter curlers; ice picks; vegetable mashers; larding needles; poker, tongs, rakers and cover lifts for stoves or fire places. [Emphasis in original.]

For each of the items enumerated in EN 82.05 (E), a certain amount of effort must be applied in order for the hand tool to function. In contrast, a strainer can be held or rested over a container; the strainer performs its function while motionless. This "motionless function" is also involved in certain or all of the items enumerated above in EN 73.23 (A).

At GRI 1, it is our determination that the steel strainers are more accurately described as kitchen articles in heading 7323, HTSUS, than as handtools in heading 8205, HTSUS. This determination is supported by the EN's, excerpted above.

Therefore, we find that the steel strainers are classified in subheading 7323.99.90, HTSUS, as: "Table, kitchen or other household articles and parts thereof, of iron or steel ... : Other: ... Other: ... Not coated or plated with precious metal: ... Other: ... Other."

Holding:

The steel strainers are classified in subheading 7323.99.90, HTSUS, as: "Table, kitchen or other household articles and parts thereof, of iron or steel ... : Other: ... Other: ... Not coated or plated with precious metal: ... Other: ... Other."

Effect on other Rulings:

NY C87841 is modified as to the steel strainers.

JOHN DURANT,
Director,
Commercial Rulings Division.

REVOCATION AND MODIFICATION OF RULING LETTERS AND TREATMENT RELATING TO TARIFF CLASSIFICATION OF VEGETABLE PEELERS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation and modification of ruling letters, and revocation of treatment relating to tariff classification of vegetable peelers.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, as amended, (19 U.S.C. 1625(c)), this notice advises interested parties that Customs is revoking or modifying six ruling letters pertaining to the tariff classification of vegetable peelers under the Harmonized Tariff Schedule of the United States ("HTSUS") and any treatment previously accorded by Customs to substantially identical transactions. Notice of the proposed actions was published in the CUSTOMS BULLETIN on December 6, 2000. No comments were received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after March 25, 2001.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, General Classification Branch, (202) 927-2388.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are

"informed compliance" and **"shared responsibility."** These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), a notice was published in the CUSTOMS BULLETIN on December 6, 2000, proposing to revoke or modify six ruling letters pertaining to the tariff classification of vegetable peelers. No comments were received in response to the notice.

As stated in the proposed notice, this revocation and modification will cover any rulings on the subject merchandise which may exist but which have not been specifically identified. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised Customs during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule. Any person involved in substantially identical transactions should have advised Customs during the comment period. An importer's failure to advise Customs of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is modifying or revoking HQ 950609, NY 809925, NY 832235, NY 870912, NY 883743, NY 883746 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ 964639, HQ 964640, HQ 964648, HQ 964649, HQ 964650, and HQ 964651, respectively. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by

the Customs Service to substantially identical transactions. HQ 964639, HQ 964640, HQ 964648, HQ 964649, HQ 964650, and HQ 964651 are set forth as Attachments A through F, respectively, to this document.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

Dated: January 8, 2001.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

January 8, 2001
CLA-2 RR:CR:GC 964639 GOB
Category: Classification
Tariff No. 8205.51.30

MR. DAN TIMNEY
YAMATO CUSTOMS BROKERS U.S.A., INC.
353 Point San Bruno Blvd. South
San Francisco, CA 94080

Re: HQ 950609 modified; vegetable peeler.

DEAR MR. TIMNEY:

This letter is with respect to HQ 950609 dated January 7, 1992, issued to you on behalf of CGS International, concerning the classification under the Harmonized Tariff Schedule of the United States ("HTSUS") of a kitchen organizer set consisting of various items.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of HQ 950609, as described below, was published in the CUSTOMS BULLETIN on December 6, 2000. No comments were received in response to that notice.

Facts:

In HQ 950609, we determined that a steel vegetable peeler was classified in subheading 8211.92.20, HTSUS, as "Knives with cutting blades ... : Other: ... Other knives having fixed blades: With rubber or plastic handles: Kitchen and butcher knives." We have reviewed that classification and have determined that it is incorrect. This ruling sets forth the correct classification of the steel vegetable peeler. All other determinations of HQ 950609 remain in effect.

Issue:

What is the tariff classification of the vegetable peeler – is it provided for in heading 8205, HTSUS, heading 8211, HTSUS, or heading 8214, HTSUS?

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

8205 Handtools...not elsewhere specified or included...:

Other handtools ... and parts thereof:

8205.51 Household tools, and parts thereof:

Of iron or steel:

8205.51.30 Other (including parts)

8211 Knives with cutting blades, serrated or not
(including pruning knives), other than knives of
heading 8208, and blades and other base metal
parts thereof:

Other:

8211.92 Other knives having fixed blades:

With rubber or plastic
handles:

8211.92.20 Kitchen and butcher
knives

8214 Other articles of cutlery (for example, hair
clippers, butchers' or kitchen cleavers, chopping
or mincing knives, paper knives); ...

8214.90 Other:

8214.90.90 Other (including parts)

EN 82.05 provides that "[t]his heading covers all hand tools **not included** in other headings of this Chapter or elsewhere in the nomenclature ... together with

certain other tools or appliances specifically mentioned in the title." EN 82.05 further provides that the "other hand tools" group includes "steels and other knife sharpeners of metal; pastry cutters and jagers; graters for cheese, etc.; ... cheese slicers, vegetable slicers ..." [Emphasis in original.] Thus, certain household tools are included in heading 8205, HTSUS, some of which have cutting blades.

EN 82.11 provides that heading 8211 covers: **"Non-folding knives for kitchen, trade or other uses ...** This category includes, *inter alia*: ... fruit peeling knives." EN 82.11 also provides that heading 8211 excludes: "Articles of cutlery of heading 82.14." [Emphasis in original.]

EN 82.14 provides that heading 8214 includes: "(1) **Paper knives, letter openers, erasing knives, pencil sharpeners ...** (4) **Butchers' or kitchen choppers, cleavers, and mincing knives.** These articles do not have the normal shape of a knife, and may be designed for use with one or both hands." [Emphasis in original.]

After a consideration of the possible tariff classifications for the steel vegetable peeler, it is our determination that it is provided for in heading 8205, HTSUS, as "Handtools ... not elsewhere specified or included ..." and it is classified in subheading 8205.51.30, HTSUS. This determination is based upon the following.

Heading 8205, HTSUS, more accurately describes vegetable peelers than heading 8214, HTSUS, in that vegetable peelers are more similar to hand tools (heading 8205) than to cutlery. As noted above, EN 82.05 provides that the "other hand tools" group includes vegetable slicers, which we believe to be substantially similar to hand-held vegetable peelers. We believe that vegetable slicers involve "similar action" to vegetable peelers. With respect to headings 8211 and 8214, HTSUS, we note that vegetable peelers are not knives, and cannot be used as knives. Vegetable peelers involve a specific, fine action, a more limited range of action than can be accomplished with knives. Thus, for tariff purposes, heading 8205, HTSUS, hand tools not elsewhere specified or included, is more specific for vegetable peelers than is either heading 8211 or heading 8214, HTSUS.

Our determination that vegetable peelers are classified in subheading 8205.51.30, HTSUS, is consistent with our determinations in NY A80298 dated February 20, 1996, NY A80301 dated February 20, 1996, NY B86142 dated June 10, 1997, and NY C84668 dated May 27, 1998.

Holding:

The steel vegetable peeler is provided for in heading 8205, HTSUS, and is classified in subheading 8205.51.30, HTSUS, as: "Handtools ... not elsewhere specified or included ... : Other handtools ... : Household tools ... : Of iron or steel: ... Other ..."

Effect on other Rulings:

HQ 950609 is modified with respect to the classification of the steel vegetable peeler. All other determinations of HQ 950609 remain in effect. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT B]

January 8, 2001
CLA-2 RR:CR:GC 964640 GOB
Category: Classification
Tariff No. 8205.51.30

Mr. RICHARD ROSTER
A.V. REILEY INTERNATIONAL LTD.
1555 N. Michael Drive
Wood Dale, IL 60191

Re: NY 809925 modified; vegetable peeler.

DEAR Mr. ROSTER:

This letter is with respect to New York Ruling Letter ("NY") 809925, issued to you by the Customs National Commodity Specialist Division, New York, on June 2, 1995, concerning the classification, under the Harmonized Tariff Schedule of the United States ("HTSUS") of three kitchen items.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of NY 809925, as described below, was published in the CUSTOMS BULLETIN on December 6, 2000. No comments were received in response to that notice.

Facts:

In NY 809925, the National Commodity Specialist Division issued a classification ruling with respect to three articles. The pertinent article for the purpose of this ruling is a steel swivel peeler with a rubber handle used to peel vegetables and fruit (the "vegetable peeler"). The vegetable peeler was classified in subheading 8211.92.20, HTSUS, as "Knives with cutting blades ... : Other: ... Other knives having fixed blades: With rubber or plastic handles: Kitchen and butcher knives.". We have reviewed that classification and have determined that it is incorrect. This ruling sets forth the correct classification. All other determinations of NY 809925 remain in effect.

Issue:

What is the tariff classification of a vegetable peeler - is it provided for in heading 8205, HTSUS, heading 8211, HTSUS, or heading 8214, HTSUS?

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

8205 Handtools...not elsewhere specified or included...:

Other handtools ... and parts thereof:

8205.51

Household tools, and parts thereof:

Of iron or steel:

8205.51.30

Other (including parts)

* * * * *

8211 Knives with cutting blades, serrated or not
(including pruning knives), other than knives of
heading 8208, and blades and other base metal
parts thereof:

Other:

8211.92

Other knives having fixed blades:

With rubber or plastic
handles:

8211.92.20

Kitchen and butcher
knives

* * * * *

8214 Other articles of cutlery (for example, hair
clippers, butchers' or kitchen cleavers, chopping
or mincing knives, paper knives); ...

8214.90

Other:

8214.90.90

Other (including parts)

EN 82.05 provides that "[t]his heading covers all hand tools **not included** in other headings of this Chapter or elsewhere in the nomenclature ... together with certain other tools or appliances specifically mentioned in the title." EN 82.05 further provides that the other hand tools group includes "pastry cutters and jagers; graters for cheese, etc.; ... cheese slicers, vegetable slicers ..." [Emphasis in original.] Thus, certain household articles are included in heading 8205, HTSUS, some with cutting blades.

EN 82.11 provides that heading 8211 covers: "**Non-folding knives for kitchen, trade or other uses** ... This category includes, *inter alia*: ... fruit peeling knives." EN 82.11 also provides that heading 8211 excludes: "Articles of cutlery of **heading 82.14**." [Emphasis in original.]

EN 82.14 provides that heading 8214 includes: "(1) **Paper knives, letter openers, erasing knives, pencil sharpeners** ... (4) **Butchers' or kitchen choppers, cleavers, and mincing knives**. These articles do not have the normal shape of a knife, and may be designed for use with one or both hands." [Emphasis in original.]

After a consideration of the possible tariff classifications for the steel vegetable peeler, it is our determination that it is provided for in heading 8205, HTSUS, as "Handtools ... not elsewhere specified or included ..." and it is classified in subheading 8205.51.30, HTSUS. This determination is based upon the following.

Heading 8205, HTSUS, more accurately describes vegetable peelers than heading 8214, HTSUS in that vegetable peelers are more similar to hand tools (heading 8205) than to cutlery. As noted above, EN 82.05 provides that the "other hand tools" group includes vegetable slicers, which we believe to be substantially similar

to hand-held vegetable peelers. We believe that vegetable slicers involve "similar action" to vegetable peelers. With respect to headings 8211 and 8214, HTSUS, we note that vegetable peelers are not knives, and cannot be used as knives. Vegetable peelers involve a specific, fine action, a more limited range of action than can be accomplished with knives. Thus, for tariff purposes, heading 8205, HTSUS, hand tools not elsewhere specified or included is more specific for vegetable peelers than is either heading 8211 or 8214, HTSUS.

Our determination that vegetable peelers are classified in subheading 8205.51.30, HTSUS, is consistent with our determinations in NY A80298 dated February 20, 1996, NY A80301 dated February 20, 1996, NY B86142 dated June 10, 1997, and NY C84668 dated May 27, 1998.

Holding:

The steel vegetable peeler is provided for in heading 8205, HTSUS, and is classified in subheading 8205.51.30, HTSUS, as: "Handtools ... not elsewhere specified or included ... : Other handtools ... : Household tools ... : Of iron or steel: ... Other ..."

Effect on other Rulings:

NY 809925 is modified with respect to the classification of the steel vegetable peeler. All other determinations of NY 809925 remain in effect. In accordance with 19 U.S.C. 1625(c) this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT C]

January 8, 2001
CLA-2 RR:CR:GC 964648 GOB
Category: Classification
Tariff No. 8205.51.30

MR. W. ZIMMER
J. J. GAVIN & CO., INC.
130 Church Street
New York, N.Y. 10007-2221

Re: NY 832235 revoked; vegetable peeler.

DEAR MR. ZIMMER:

This letter is with respect to New York Ruling Letter ("NY") 832235 dated October 26, 1988, issued to you on behalf of Rowoco, Inc. by the Customs National Commodity Specialist Division, New York concerning the classification under the Harmonized Tariff Schedule of the United States ("HTSUS") of a vegetable peeler.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY 832235, as described below, was published in the CUSTOMS BULLETIN on December 6, 2000. No comments were received in

response to that notice.

Facts:

In NY 832235, the National Commodity Specialist Division issued a classification ruling with respect to an all metal vegetable peeler with a three inch working part and an overall length of approximately six inches. The working part is a concave-convex, sharpened piece cut out in the center. The vegetable peeler was classified in subheading 8214.90.90, HTSUS, as "Other articles of cutlery ... : ... Other: ... Other: ..." We have reviewed that classification and have determined that it is incorrect. This ruling sets forth the correct classification.

Issue:

What is the tariff classification of a vegetable peeler – is it provided for in heading 8205, HTSUS, heading 8211, HTSUS, or heading 8214, HTSUS?

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

8205 Handtools...not elsewhere specified or included...:

Other handtools ... and parts thereof:

8205.51 Household tools, and parts thereof:

Of iron or steel:

8205.51.30 Other (including parts)

8205.51.60 Of aluminum

* * * * *

8211 Knives with cutting blades, serrated or not
(including pruning knives), other than knives of
heading 8208, and blades and other base metal
parts thereof:

Other:

8211.92 Other knives having fixed blades:

With rubber or plastic
handles:

8211.92.20 Kitchen and butcher
knives

* * * * *

8214 Other articles of cutlery (for example, hair clippers, butchers' or kitchen cleavers, chopping or mincing knives, paper knives); ...

8214.90 Other:

8214.90.90 Other (including parts)

EN 82.05 provides that "[t]his heading covers all hand tools **not included** in other headings of this Chapter or elsewhere in the nomenclature ... together with certain other tools or appliances specifically mentioned in the title." EN 82.05 further provides that the other hand tools group includes "pastry cutters and jagers; graters for cheese, etc.; ... cheese slicers, vegetable slicers ..." [Emphasis in original.] Thus, certain household articles are included in heading 8205, HTSUS, some of which have cutting blades.

EN 82.11 provides that heading 8211 covers: "**Non-folding knives for kitchen, trade or other uses** ... This category includes, *inter alia*: ... fruit peeling knives." EN 82.11 also provides that heading 8211 excludes: "Articles of cutlery of heading 82.14." [Emphasis in original.]

EN 82.14 provides that heading 8214 includes: "(1) **Paper knives, letter openers, erasing knives, pencil sharpeners** ... (4) **Butchers' or kitchen choppers, cleavers, and mincing knives**. These articles do not have the normal shape of a knife, and may be designed for use with one or both hands." [Emphasis in original.]

After a consideration of the possible tariff classifications for the steel vegetable peeler, it is our determination that it is provided for in heading 8205, HTSUS, as "Handtools ... not elsewhere specified or included ..." If the vegetable peeler is of steel, it is classified in subheading 8205.51.30, HTSUS. If the vegetable peeler is of aluminum, it is classified in subheading 8205.51.60, HTSUS. These determinations are based upon the following.

Heading 8205, HTSUS, more accurately describes vegetable peelers than heading 8214, HTSUS in that vegetable peelers are more similar to hand tools (heading 8205) than to cutlery. As noted above, EN 82.05 provides that the "other hand tools" group includes vegetable slicers, which we believe to be substantially similar to hand-held vegetable peelers. We believe that vegetable slicers involve "similar action" to vegetable peelers. With respect to headings 8211 and 8214, HTSUS, we note that vegetable peelers are not knives, and cannot be used as knives. Vegetable peelers involve a specific, fine action, a more limited range of action than can be accomplished with knives. Thus, for tariff purposes, heading 8205, HTSUS, hand tools not elsewhere specified or included, is more specific for vegetable peelers than is either heading 8211 or 8214, HTSUS.

Our determination that vegetable peelers are classified in subheading 8205.51.30, HTSUS, is consistent with our determinations in NY A80298 dated February 20, 1996, NY A80301 dated February 20, 1996, NY B86142 dated June 10, 1997, and NY C84668 dated May 27, 1998.

Holding:

The vegetable peeler is provided for in heading 8205, HTSUS. If the vegetable peeler is of steel, it is classified in subheading 8205.51.30, HTSUS, as: "Handtools ... not elsewhere specified or included ... : Other handtools ... : Household tools ... : Of iron or steel: ... Other ..." If the vegetable peeler is of aluminum, it is classified in subheading 8205.51.60, HTSUS, as "Handtools ... not elsewhere specified or included ... : Other handtools ... : Household tools ... : Of aluminum."

Effect on other Rulings:

NY 832235 is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT D]

January 8, 2001
CLA-2 RR:CR:GC 964649 GOB
Category: Classification
Tariff No. 8205.51.30

MR. JOHN PAUL VYBORNÝ
COLLECTRON OF ARIZONA, INC.
3000 Mariposa Road
Nogales, AZ 85621

Re: NY 870912 revoked; vegetable peeler.

DEAR MR. VYBORNÝ:

This letter is with respect to New York Ruling Letter ("NY") 870912, issued to you on behalf of Ekco Group, Inc. by the Customs National Commodity Specialist Division, New York, on February 19, 1992, concerning the classification under the Harmonized Tariff Schedule of the United States ("HTSUS") of a vegetable peeler.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY 870912, as described below, was published in the CUSTOMS BULLETIN on December 6, 2000. No comments were received in response to that notice.

Facts:

In NY 870912, the National Commodity Specialist Division issued a classification ruling with respect to an all-metal vegetable peeler with a swivel-type stainless steel blade. The cutting edges are formed by the longitudinal slit down the middle of the blade. The vegetable peeler was classified in subheading 8214.90.90, HTSUS, as "Other articles of cutlery ... : ... Other: ... Other ...". We have reviewed that classification and have determined that it is incorrect. This ruling sets forth the correct classification.

Issue:

What is the tariff classification of a vegetable peeler - is it provided for in heading 8205, HTSUS, heading 8211, HTSUS, or heading 8214, HTSUS?

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise

require, the remaining GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

8205 Handtools...not elsewhere specified or included...:

Other handtools ... and parts thereof:

8205.51 Household tools, and parts thereof:

Of iron or steel:

8205.51.30 Other (including parts)

* * * * *

8211 Knives with cutting blades, serrated or not
(including pruning knives), other than knives of
heading 8208, and blades and other base metal
parts thereof:

Other:

8211.92 Other knives having fixed blades:

With rubber or plastic
handles:

8211.92.20 Kitchen and butcher
knives

* * * * *

8214 Other articles of cutlery (for example, hair
clippers, butchers' or kitchen cleavers, chopping
or mincing knives, paper knives); ...

8214.90 Other:

8214.90.90 Other (including parts)

EN 82.05 provides that "[t]his heading covers all hand tools **not included** in other headings of this Chapter or elsewhere in the nomenclature ... together with certain other tools or appliances specifically mentioned in the title." EN 82.05 further provides that the other hand tools group includes "pastry cutters and jagers; graters for cheese, etc.; ... cheese slicers, vegetable slicers ..." [Emphasis in original.] Thus, certain household articles are included in heading 8205, HTSUS, some of which have cutting blades.

EN 82.11 provides that heading 8211 covers: "**Non-folding knives for kitchen, trade or other uses** ... This category includes, *inter alia*: ... fruit peeling knives." EN 82.11 also provides that heading 8211 excludes: "Articles of cutlery of **heading 82.14**." [Emphasis in original.]

EN 82.14 provides that heading 8214 includes: "(1) **Paper knives, letter openers, erasing knives, pencil sharpeners** ... (4) **Butchers' or kitchen chop-**

pers, cleavers, and mincing knives. These articles do not have the normal shape of a knife, and may be designed for use with one or both hands." [Emphasis in original.]

After a consideration of the possible tariff classifications for the steel vegetable peeler, it is our determination that it is provided for in heading 8205, HTSUS, as "Handtools ... not elsewhere specified or included ..." and it is classified in subheading 8205.51.30, HTSUS, as: "Handtools ... not elsewhere specified or included ... : Other handtools ... : Household tools ... : Of iron or steel: ... Other ..." This determination is based upon the following.

Heading 8205, HTSUS, more accurately describes the vegetable peelers than heading 8214, HTSUS in that the vegetable peelers are more similar to hand tools (heading 8205) than to cutlery. As noted above, EN 82.05 provides that the "other hand tools" group includes vegetable slicers, which we believe to be substantially similar to hand-held vegetable peelers. We believe that vegetable slicers involve "similar action" to vegetable peelers. With respect to headings 8211 and 8214, HTSUS, we note that vegetable peelers are not knives, and cannot be used as knives. Vegetable peelers involve a specific, fine action, a more limited range of action than can be accomplished with knives. Thus, for tariff purposes, heading 8205, HTSUS, hand tools not elsewhere specified or included, is more specific for vegetable peelers than either heading 8211 or 8214, HTSUS.

Our determination that vegetable peelers are classified in subheading 8205.51.30, HTSUS, is consistent with our determinations in NY A80298 dated February 20, 1996, NY A80301 dated February 20, 1996, NY B86142 dated June 10, 1997, and NY C84668 dated May 27, 1998.

Holding:

The steel vegetable peeler is provided for in heading 8205, HTSUS, and is classified in subheading 8205.51.30, HTSUS, as: "Handtools ... not elsewhere specified or included ... : Other handtools ... : Household tools ... : Of iron or steel: ... Other ..."

Effect on other Rulings:

NY 870912 is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT E]

January 8, 2001
CLA-2 RR:CR:GC 964650 GOB
Category: Classification
Tariff No. 8205.51.30

MR. EDWARD J. FEDER
A. BURGHART SHIPPING CO., INC.
700 Rahway Avenue
Union, NJ 07083-6634

Re: NY 883743 revoked; vegetable peeler.

DEAR MR. FEDER:

This letter is with respect to New York Ruling Letter ("NY") 883743, issued to

you on behalf of Acme Metal Goods Manufacturing Co. by the Customs National Commodity Specialist Division, New York, on March 30, 1992 concerning the classification under the Harmonized Tariff Schedule of the United States ("HTSUS") of a vegetable peeler.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY 883743, as described below, was published in the CUSTOMS BULLETIN on December 6, 2000. No comments were received in response to that notice.

Facts:

In NY 883743, the National Commodity Specialist Division issued a classification ruling with respect to a swivel vegetable peeler which is six inches long. The blade section is two and one-half inches long and has a center longitudinal slit with double cutting edges. The vegetable peeler was classified in subheading 8214.90.90, HTSUS, as "Other articles of cutlery ... : ... Other: ... Other ..." We have reviewed that classification and have determined that it is incorrect. This ruling sets forth the correct classification.

Issue:

What is the tariff classification of a vegetable peeler – is it provided for in heading 8205, HTSUS, heading 8211, HTSUS, or heading 8214, HTSUS?

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

8205 Handtools...not elsewhere specified or included...:

Other handtools ... and parts thereof:

8205.51 Household tools, and parts thereof:

Of iron or steel:

8205.51.30 Other (including parts)

8205.51.60 Of aluminum

* * * * *

8211 Knives with cutting blades, serrated or not
(including pruning knives), other than knives of
heading 8208, and blades and other base metal
parts thereof:

Other:

8211.92

Other knives having fixed blades:

With rubber or plastic
handles:

8211.92.20

Kitchen and butcher
knives

* * * * *

8214 Other articles of cutlery (for example, hair
clippers, butchers' or kitchen cleavers, chopping
or mincing knives, paper knives); ...

8214.90

Other:

8214.90.90

Other (including parts)

EN 82.05 provides that "[t]his heading covers all hand tools **not included** in other headings of this Chapter or elsewhere in the nomenclature ... together with certain other tools or appliances specifically mentioned in the title." EN 82.05 further provides that the other hand tools group includes "pastry cutters and jagers; graters for cheese, etc.; ... cheese slicers, vegetable slicers ..." [Emphasis in original.] Thus, certain household articles are included in heading 8205, HTSUS, some with cutting blades.

EN 82.11 provides that heading 8211 covers: "**Non-folding knives for kitchen, trade or other uses** ... This category includes, *inter alia*: ... fruit peeling knives." EN 82.11 also provides that heading 8211 excludes: "Articles of cutlery of heading 82.14." [Emphasis in original.]

EN 82.14 provides that heading 8214 includes: "(1) **Paper knives, letter openers, erasing knives, pencil sharpeners** ... (4) **Butchers' or kitchen choppers, cleavers, and mincing knives**. These articles do not have the normal shape of a knife, and may be designed for use with one or both hands." [Emphasis in original.]

After a consideration of the possible tariff classifications for the steel vegetable peeler, it is our determination that it is provided for in heading 8205, HTSUS, as "Handtools ... not elsewhere specified or included ..." If the vegetable peeler is of steel, it is classified in subheading 8205.51.30, HTSUS. If the vegetable peeler is of aluminum, it is classified in subheading 8205.51.60, HTSUS. These determinations are based upon the following.

Heading 8205, HTSUS, more accurately describes the vegetable peelers than heading 8214, HTSUS in that the vegetable peelers are more similar to hand tools (heading 8205) than to cutlery. As noted above, EN 82.05 provides that the "other hand tools" group includes vegetable slicers, which we believe to be substantially similar to hand-held vegetable peelers. We believe that vegetable slicers involve "similar action" to vegetable peelers. With respect to headings 8211 and 8214, HTSUS, we note that vegetable peelers are not knives, and cannot be used as knives. Vegetable peelers involve a specific, fine action, a more limited range of action than can be accomplished with knives. Thus, for tariff purposes, heading 8205, HTSUS, hand tools not elsewhere specified or included, is more specific for vegetable peelers than either heading 8211 or 8214, HTSUS.

Our determination that vegetable peelers are classified in subheading 8205.51.30, HTSUS, is consistent with our determinations in NY A80298 dated February 20, 1996, NY A80301 dated February 20, 1996, NY B86142 dated June 10, 1997, and NY C84668 dated May 27, 1998.

Holding:

The vegetable peeler is provided for in heading 8205, HTSUS. If the vegetable peeler is of steel, it is classified in subheading 8205.51.30, HTSUS, as: "Handtools ... not elsewhere specified or included ... : Other handtools ... : Household tools ... : Of iron or steel: ... Other ...". If the vegetable peeler is of aluminum, it is classified in subheading 8205.51.60, HTSUS, as "Handtools ... not elsewhere specified or included ... : Other handtools ... : Household tools ... : Of aluminum."

Effect on other Rulings:

NY 883743 is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT F]

January 8, 2001
CLA-2 RR:CR:GC 964651 GOB
Category: Classification
Tariff No. 8205.51.30

MR. EDWARD J. FEDER
A. BURGHART SHIPPING CO., INC.
700 Rahway Avenue
Union, NJ 07083-6634

Re: NY 883746 revoked; vegetable peeler.

DEAR MR. FEDER:

This letter is with respect to New York Ruling Letter ("NY") 883746, issued to you on behalf of Acme Metal Goods Manufacturing Co. by the Customs National Commodity Specialist Division, New York, on March 30, 1992, concerning the classification under the Harmonized Tariff Schedule of the United States ("HTSUS") of a vegetable peeler.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY 883746, as described below, was published in the CUSTOMS BULLETIN on December 6, 2000. No comments were received in response to that notice.

Facts:

In NY 883746, the National Commodity Specialist Division issued a classification ruling with respect to a vegetable peeler with a stainless steel swivel blade. The blade has a wide center slit with a single cutting edge. The vegetable peeler is in the general shape of a hippopotamus and is known as a "hippo peeler." The vegetable peeler was classified in subheading 8214.90.90, HTSUS, as "Other articles of cutlery ... : ... Other: ... Other ...". We have reviewed that classification and have determined that it is incorrect. This ruling sets forth the correct classification.

Issue:

What is the tariff classification of a vegetable peeler – is it provided for in heading 8205, HTSUS, heading 8211, HTSUS, or heading 8214, HTSUS?

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

8205 Handtools...not elsewhere specified or included...:

Other handtools ... and parts thereof:

8205.51 Household tools, and parts thereof:

Of iron or steel:

8205.51.30 Other (including parts)

* * * * *

8211 Knives with cutting blades, serrated or not
(including pruning knives), other than knives of
heading 8208, and blades and other base metal
parts thereof:

Other:

8211.92 Other knives having fixed blades:

With rubber or plastic
handles:

8211.92.20 Kitchen and butcher
knives

* * * * *

8214 Other articles of cutlery (for example, hair
clippers, butchers' or kitchen cleavers, chopping
or mincing knives, paper knives); ...

8214.90 Other:

8214.90.90 Other (including parts)

EN 82.05 provides that "[t]his heading covers all hand tools **not included** in other headings of this Chapter or elsewhere in the nomenclature ... together with

certain other tools or appliances specifically mentioned in the title." EN 82.05 further provides that the other hand tools group includes "pastry cutters and jagers; graters for cheese, etc.; ... cheese slicers, vegetable slicers ..." [Emphasis in original.] Thus, certain household articles are included in heading 8205, HTSUS, some with cutting blades.

EN 82.11 provides that heading 8211 covers: "**Non-folding knives for kitchen, trade or other uses** ... This category includes, *inter alia*: ... fruit peeling knives." EN 82.11 also provides that heading 8211 excludes: "Articles of cutlery of heading 82.14." [Emphasis in original.]

EN 82.14 provides that heading 8214 includes: "(1) **Paper knives, letter openers, erasing knives, pencil sharpeners** ... (4) **Butchers' or kitchen choppers, cleavers, and mincing knives**. These articles do not have the normal shape of a knife, and may be designed for use with one or both hands." [Emphasis in original.]

After a consideration of the possible tariff classifications for the vegetable peeler, it is our determination that it is provided for in heading 8205, HTSUS, as "Handtools ... not elsewhere specified or included ..." and it is classified in subheading 8205.51.30, HTSUS. This determination is based upon the following.

Heading 8205, HTSUS, more accurately describes the vegetable peelers than heading 8214, HTSUS in that the vegetable peelers are more similar to hand tools (heading 8205) than to cutlery. As noted above, EN 82.05 provides that the "other hand tools" group includes vegetable slicers, which we believe to be substantially similar to hand-held vegetable peelers. We believe that vegetable slicers involve "similar action" to vegetable peelers. With respect to headings 8211 and 8214, HTSUS, we note that vegetable peelers are not knives, and cannot be used as knives. Vegetable peelers involve a specific, fine action, a more limited range of action than can be accomplished with knives. Thus, for tariff purposes, heading 8205, HTSUS, hand tools not elsewhere specified or included, is more specific for vegetable peelers than is either heading 8211 or 8214, HTSUS.

Our determination that vegetable peelers are classified in subheading 8205.51.30, HTSUS, is consistent with our determinations in NY A80298 dated February 20, 1996, NY A80301 dated February 20, 1996, NY B86142 dated June 10, 1997, and NY C84668 dated May 27, 1998.

Holding:

The vegetable peeler is provided for in heading 8205, HTSUS, and is classified in subheading 8205.51.30, HTSUS, as: "Handtools ... not elsewhere specified or included ... : Other handtools ... : Household tools ... : Of iron or steel: ... Other ..."

Effect on other Rulings:

NY 883746 is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

MODIFICATION AND REVOCATION OF RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF AUTOMATIC ALARM SYSTEM FOR MOTOR VEHICLES

AGENCY: U. S. Customs Service, Department of the Treasury.

ACTION: Notice of modification and revocation of ruling letters and revocation of treatment relating to tariff classification of automatic alarm system for motor vehicles.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is modifying one ruling and revoking another ruling relating to the tariff classification of burglar alarms for motor vehicles, and revoking any treatment Customs has previously accorded to substantially identical transactions. Notice of the proposed modification was published on November 29, 2000, in the CUSTOMS BULLETIN.

EFFECTIVE DATE: This modification and revocation are effective for merchandise entered or withdrawn from warehouse for consumption on or after March 25, 2001.

FOR FURTHER INFORMATION CONTACT: James A. Seal, Commercial Rulings Division (202) 927-0760.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **"informed compliance"** and **"shared responsibility."** These concepts are based on the premise that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's rights and responsibilities under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and declare value on imported merchandise, and to provide other necessary information to enable Customs to properly assess duties, collect accurate statistics and determine whether any other legal requirement is met.

Pursuant to Customs obligations, a notice was published on November 29, 2000, in the CUSTOMS BULLETIN, Volume 34, Number 48, proposing to modify HQ 955115, dated December 20, 1993, and to revoke HQ 951797, dated August 17, 1992. Both rulings classified alarm systems for motor vehicles as electric sound or visual signaling apparatus, burglar or fire alarms, in subheading 8531.10.00, Harmonized Tariff Schedule of the United States (HTSUS). No comments were received in response to this notice.

As stated in the proposed notice, these modifications will cover any rulings on this merchandise which may exist but have not been specifically identified. Any party who has received an interpretative ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice, should have advised Customs during the comment period. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUS. Any person involved in substantially identical transactions should have advised Customs during this notice period. An importer's reliance on a treatment of substantially identical transactions or on a specific ruling concerning the merchandise covered by this notice which was not identified in this notice may raise the rebuttable presumption of lack of reasonable care on the part of the importer or its agents for importations subsequent to the effective date of this final decision.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is modifying HQ 955115 and revoking HQ 951797 to reflect the proper classification of motor vehicle alarm systems in subheading 8512.30.00, HTSUS, as electrical sound signaling equipment, pursuant to the analysis in HQ 964661 and HQ 964660, which are set forth as "Attachment A" and "Attachment B" to this document, respectively. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment it previously accorded to substantially identical transactions.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

Dated: January 4, 2001.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

January 4, 2001
 CLA-2 RR:CR:GC 964660 JAS
 Category: Classification
 Tariff No. 8512.30.00

MR. JOE A. DAHM
 THERM TECHNOLOGY CORP.
 2879 Remico
 Grandville, Michigan 49418

Re: HQ 951797 Revoked; Automotive Burglar Alarm System.

DEAR MR. DAHM:

In HQ 951797, dated August 17, 1992, a current sensing car alarm, imported incomplete or unfinished, was held to be classifiable in subheading 8531.10.00, Harmonized Tariff Schedule of the United States (HTSUS), as burglar or fire alarms and similar apparatus. We have reconsidered this classification and now believe that it is incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of HQ 951797 was published on November 29, 2000, in the CUSTOMS BULLETIN, Volume 34, Number 48. No comments were received in response to that notice.

Facts:

The merchandise in HQ 951797 is an incomplete automotive burglar alarm, model number CP-028A. It is compact in size, measuring 130 mm x 85 mm x 35 mm, and consists of a printed circuit board with microcomputer chips, diodes, capacitors, relays, transistors and amplifiers. The alarm will be completed after importation by the addition of wiring, a switch, terminals, together with an instruction sheet and packaging. The device incorporates a piezo buzzer and emits a "powerful piercing alarm" of 120 decibels when its current sensing circuitry detects even the slightest change in current from the car's battery caused, for example, by opening a door, starting the engine, turning on the radio or activating the lights. The alarm sounds for 90 seconds, then resets itself. Once activated, the device has a 30-second delay within which the driver may exit the car and lock it. The device also has an 8-second delay for the driver to open the door and switch off the master toggle switch hidden inside.

The HTSUS provisions under consideration are as follows:

8512 Electrical lighting or signaling equipment..., of a kind used for cycles or motor vehicles:

8512.30.00 Sound signaling equipment

* * * *

8531 Electric sound or visual signaling apparatus (for example, bells, sirens, indicator panels, burglar or fire alarms), other than those of heading 8512 or 8530; parts thereof:

8531.10.00 Burglar or fire alarms and similar apparatus

Issue:

Whether the automotive burglar alarm is a good of heading 8512.

Law and Analysis:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the HTSUS. Though not dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS. Customs believes the ENs should always be consulted. See T.D. 89-80. 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

By its terms, heading 8531 excludes electric sound signaling apparatus of heading 8512. The ENs on p. 1496 state that heading 8531 covers all electrical apparatus for signaling purposes, with the exception of signaling apparatus used on cycles or motor vehicles (heading 85.12) and such apparatus for traffic control on roads, railways, etc. (heading 85.30). This decision does not revisit the issue of whether the incomplete burglar alarm model CP-028A has the essential character under GRI 2(a), HTSUS, of a complete or finished burglar alarm; rather, the issue here is whether the device is electrical sound signaling apparatus or equipment principally used for motor vehicles.

The ENs on p. 1461 list horns, sirens and other electrical sound signaling appliances as within the scope of heading 8512. It is reasonable and logical to conclude that the powerful piercing alarm created by the piezo buzzer qualifies the device at issue as an electrical sound signaling appliance substantially similar to horns and sirens. The qualifying language in heading 8512 "of a kind used for cycles or motor vehicles" is a provision governed by "principal use." See *Group Italglass U.S.A., Inc. v. United States*, 17 C.I.T. 226, 839 F. Supp. 866 (1993). In accordance with Additional U.S. Rule of Interpretation 1(a), HTSUS, the controlling use is the principal use at or immediately prior to the date of importation of the goods of that class or kind to which the import belongs. Literature submitted with the ruling request that became HQ 951797 contains a narrative description of the CP-028A car alarm, together with a schematic. The device is connected by cable to the car's battery through the fuse box, with another cable running from the alarm to the toggle switch. The CP-028A includes a hood/trunk alarm trigger device (instant alarm), and includes as accessories a master toggle switch, push-release switch, color coded wires and assembling hardware. The available information indicates to us that the CP-028A belongs to a class or kind of sound signaling equipment principally used for motor vehicles.

Holding:

Under the authority of GRI 1, the CP-028A current sensing car alarm is provided for in heading 8512. It is classifiable in subheading 8512.30.00, HTSUS.

Effect on other Rulings:

HQ 951797, dated August 17, 1992, is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT B]

January 4, 2001

CLA-2 RR:CR:GC 964661 JAS

Category: Classification

Tariff No. 8512.30.00

MR. PAUL GARCEAU
 A.N. DERINGER, INC.
 RD #1 Box W432
 Alexandria Bay, NY 13607

Re: HQ 955115 Modified; Motor Vehicle Alarm.

DEAR MR. GARCEAU:

In HQ 955115, dated December 20, 1993, issued to you on behalf of Via Security Network, Inc., the KeepWatch Vehicle Alarm VA-1, was held to be classifiable in subheading 8531.10.00, Harmonized Tariff Schedule of the United States (HTSUS), as burglar or fire alarms and similar apparatus. A similar device, the Companion Portable Alarm PA-1, incorporating a hand-held flashlight, siren, flashing beacon and portable burglar alarm, all in a plastic body, was similarly classified. We have reconsidered the classification of the KeepWatch Vehicle Alarm VA-1 and now believe that it is incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of HQ 955115 was published on November 29, 2000, in the CUSTOMS BULLETIN, Volume 34, Number 48. No comments were received in response to that notice.

Facts:

The merchandise in HQ 955115 is described in submitted literature as a portable alarm which readily attaches to the driver's side window of any motor vehicle. The device is powered by six "AA" alkaline batteries. The literature states that for more permanent installation, the VA-1 may be wired directly to the vehicle's fuse box using wiring that is included. A key-chain remote transmitter included with the VA-1 emits an audible chirp and flashing red LED to indicate the device is armed. Once the VA-1's sensitivity level is set, attempts to break the glass, pry open doors, hood or trunk, or move the vehicle will cause a loud alarm to sound. The VA-1 also incorporates a "voltage drop" detector that permits the VA-1 to sound the alarm when it detects that a light has been activated by opening a door, hood or trunk.

The HTSUS provisions under consideration are as follows:

8512 Electrical lighting or signaling equipment..., of a kind used for cycles or motor vehicles:

8512.30.00 Sound signaling equipment

* * * *

8531 Electric sound or visual signaling apparatus (for example, bells, sirens, indicator panels, burglar or fire alarms), other than those of heading 8512 or 8530; parts thereof:

8531.10.00 Burglar or fire alarms and similar apparatus

Issue:

Whether the KeepWatch Vehicle Alarm VA-1 is a good of heading 8512.

Law and Analysis:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the HTSUS. Though not dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS. Customs believes the ENs should always be consulted. See T.D. 89-80. 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

By its terms, heading 8531 excludes electric sound signaling apparatus of heading 8512. The ENs on p. 1496 state that heading 8531 covers all electrical apparatus for signaling purposes, with the exception of signaling apparatus used on cycles or motor vehicles (heading 85.12) and such apparatus for traffic control on roads, railways, etc. (heading 85.30). The issue here is whether the KeepWatch Vehicle Alarm VA-1 is electrical sound signaling apparatus or equipment principally used for motor vehicles.

The ENs on p. 1461 list horns, sirens and other electrical sound signaling appliances as being within the scope of heading 8512. It is reasonable and logical to conclude that the "loud alarm" the VA-1 creates qualifies the device as an electrical sound signaling appliance substantially similar to horns and sirens. The qualifying language in heading 8512 "of a kind used for cycles or motor vehicles" is a provision governed by "principal use." See *Group Italglass U.S.A., Inc. v. United States*, 17 C.I.T. 226, 839 F. Supp. 866 (1993). In accordance with Additional U.S. Rule of Interpretation 1(a), HTSUS, the controlling use is the principal use at or immediately prior to the date of importation of the goods of that class or kind to which the VA-1 belongs. The above description of the KeepWatch Vehicle Alarm VA-1 is taken from literature submitted with the ruling request, and indicates to us that it belongs to a class or kind of sound signaling equipment principally used for motor vehicles.

Holding:

Under the authority of GRI 1, the KeepWatch Vehicle Alarm VA-1, with its key chain remote transmitter, is provided for in heading 8512. It is classifiable in subheading 8512.30.00, HTSUS.

Effect on other Rulings:

HQ 955115, dated December 20, 1993, is modified as to this merchandise. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

MODIFICATION AND REVOCATION OF RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSI- FICATION OF POWER WASHERS

AGENCY: U. S. Customs Service, Department of the Treasury.

ACTION: Notice of modification and revocation of ruling letters and revocation of treatment relating to tariff classification of power washers.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is revoking three (3) rulings and modifying five (5) other rulings relating to the tariff classification of power washers and revoking any treatment Customs has previously accorded to substantially identical transactions. Notice of the proposed modification was published on November 29, 2000, in the CUSTOMS BULLETIN.

EFFECTIVE DATE: These modifications and revocations are effective for merchandise entered or withdrawn from warehouse for consumption on or after March 25, 2001.

FOR FURTHER INFORMATION CONTACT: James A. Seal, Commercial Rulings Division (202) 927-0760.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **"informed compliance"** and **"shared responsibility."** These concepts are based on the premise that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's rights and responsibilities under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and declare value on imported merchandise, and to provide other necessary information to enable Customs to properly assess duties, collect accurate statistics and determine whether any other legal requirement is met.

Pursuant to Customs obligations, a notice was published on No-

vember 29, 2000, in the CUSTOMS BULLETIN, Volume 34, Number 48, proposing to revoke NY C88579, dated June 4, 1998, NY 838201, dated March 28, 1989, NY 896995, dated April 25, 1994, and to modify NY 838018, dated March 17, 1989, HQ 952868, dated November 26, 1993, NY 837810, dated March 17, 1989, NY 843315, dated July 13, 1989, and NY E83107, dated June 17, 1999, all of which classified pressure or power washers as other mechanical appliances for projecting, dispersing or spraying liquids or powders, in subheading 8424.89.00 or subheading 8424.89.70, Harmonized Tariff Schedule of the United States (HTSUS). No comments were received in response to this notice.

As stated in the proposed notice, these modifications will cover any rulings on this merchandise which may exist but have not been specifically identified. Any party who has received an interpretative ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice, should have advised Customs during the comment period. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUS. Any person involved in substantially identical transactions should have advised Customs during this notice period. An importer's reliance on a treatment of substantially identical transactions or on a specific ruling concerning the merchandise covered by this notice which was not identified in this notice may raise the rebuttable presumption of lack of reasonable care on the part of the importer or its agents for importations subsequent to the effective date of this final decision.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is modifying and revoking the listed rulings to reflect the proper classification of pressure or power washers in subheading 8424.30.90, HTSUS, as other steam or sand blasting machines and similar jet projecting machines, pursuant to the analysis in HQ 964635, HQ 964636, HQ 964637, HQ 964658, HQ 964664, HQ 964665, HQ 964666, and HQ 964667, which are set forth as the Attachments to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment it previously accorded to substantially identical transactions.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

Dated: January 4, 2001.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

January 4, 2001

CLA-2 RR:CR:GC 964635 JAS

Category: Classification

Tariff No. 8424.30.90

MR. DANNY ECKEL
THE CAMPBELL GROUP
100 Production Drive
Harrison, Ohio 45030

Re: NY C88579 Revoked; Pressure Washer.

DEAR MR. ECKEL:

In NY C88579, which the Director of Customs National Commodity Specialist Division, New York, issued to you on June 4, 1998, certain pressure washers from Italy were held to be classified in subheading 8424.89.70, Harmonized Tariff Schedule of the United States (HTSUS), as other mechanical appliances for projecting, dispersing or spraying liquids or powders. We have reconsidered this classification and now believe that it is incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY C88579 was published on November 29, 2000, in the CUSTOMS BULLETIN, Volume 34, Number 48. No comments were received in response to that notice.

Facts:

The merchandise in NY C88579 was described as a pressure washer used to clean house exteriors, cars, decks, boats, lawn equipment, sidewalks, gutters, patio furniture, among other things. It consisted basically of either electric or gasoline-powered, motor driven pumps which force water through a hose and nozzle to attain a high pressure spray to clean the surface of the target article. Power washers of this type take low-pressure tap water, pass it through a pump to increase the water's exit pressure, then through a high-pressure hose, handgun and spray lance to a high-pressure rotary nozzle. At lower pressures some models may have a suction hose that draws detergent or other cleaning solvent from a reservoir into the system to enhance the washer's cleaning capability.

In the ruling request that became NY C88579, you maintained that the power washers were jet projecting machines similar to steam or sand blasting machines, of the type classifiable in subheading 8424.30.90, HTSUS. We rejected that claim on the basis of our belief that the power washers did not function in the manner of jet projecting machines similar to steam or sand blasting machines.

The HTSUS provisions under consideration are as follows:

8424	Mechanical appliances...for projecting, dispersing or spraying liquids or powders; steam or sand blasting machines and similar jet projecting machines:
8424.30.80 (now 90)	Other steam or sand blasting machines and similar jet projecting machines
8424.89	Other:
8424.89.70	Other

Issue:

Whether power washers or pressure washers are jet projecting machines similar to steam or sand blasting machines.

Law and Analysis:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. Though not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System. Customs believes the ENs should always be consulted. See T.D. 89-80. 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

In our opinion, whether power washers are jet projecting machines "similar" to steam or sand blasting machines, requires that we identify the characteristic or characteristics that steam or sand blasting machines have in common, and whether the power washer at issue shares that/those characteristics. To be classifiable in subheading 8424.30.90, HTSUS, the power washers the subject of NY C88579 must be substantially the same as steam or sand blasting machines in terms of design, construction, function, and use.

The ENs on p. 1287, under the heading (C) **STEAM OR SAND BLASTING MACHINES AND SIMILAR JET PROJECTING MACHINES**, include the following:

Sand blasting machines and the like are often of heavy construction and sometimes incorporate compressors. They are used for de-scaling or cleaning metal articles, for etching or putting a matt surface on glass, stone, etc., by subjecting the articles to the action of high pressure jets of sand, metal abrasives, etc. They are usually fitted with dust extractors to remove the residual sand and dust. The heading also covers steam blast appliances used, for example, for de-greasing machined metal, etc.

From the EN description, it is apparent that sand blasting machines, steam blast appliances, and power washers all have the same essential components, *i.e.*, motor, pump and spraying wand; steam blast appliances and power washers commonly incorporate a heater coil which gives them the ability to create steam; whether using steam or sand, pressurized water or heated pressurized water, alone or in combination with a cleaning solvent, all are of a class or kind of machines and appliances used for *cleaning* purposes to remove foreign matter from a target surface; and (3) all *project* their cleaning media, that is, they discharge or emit a forceful stream of effluent from a nozzle or narrow opening. We conclude that in terms of design, construction, function and use, the power washers at issue are jet projecting machines similar to steam or sand blasting machines.

In an effort to achieve uniformity in the interpretation of the Harmonized System (HS) at the international level, Customs regards rulings from other countries that classify identical or substantially similar merchandise as instructive. However, such rulings do not constitute the official interpretation of the HS. For this and other reasons, these rulings shall not be treated as dispositive and Customs is not bound by them. Nevertheless, however, a ruling from the Munich Branch of the German Customs Directory, and another from Revenue Canada have recently been brought to our attention. These rulings classify power washers believed to be substantially similar to the ones at issue here in subheading 8424.30.80 (now 90). These rulings are consistent with our classification under the HTSUS.

Holding:

Under the authority of GRI 1, the power washers, as described, are provided for in heading 8424. They are classifiable in subheading 8424.30.90, HTSUS.

Effect on other Rulings:

NY C88579, dated June 4, 1998, is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT B]

January 4, 2001
CLA-2 RR:CR:GC 964636 JAS
Category: Classification
Tariff No. 8424.30.90

Ms. BARBARA M. EDWARDS
KREUSLER INT'L SERVICES, INC.
P.O. Box 66379
AMF O'Hare
Chicago, Illinois 60666

Re: NY 838201 Revoked; Pressure Washer.

DEAR Ms. EDWARDS:

In NY 838201, dated March 28, 1989, which the Area Director of Customs (now Director of Customs National Commodity Specialist Division), New York, issued to you on behalf of Builders Square, Inc., the model PW-820G power washer was held to be classified in subheading 8424.89.00, Harmonized Tariff Schedule of the United States (HTSUS), as other mechanical appliances for projecting, dispersing or spraying liquids or powders. We have reconsidered this classification and now believe that it is incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY 838201 was published on November 29, 2000, in the Customs Bulletin, Volume 34, Number 48. No comments were received in response to that notice.

Facts:

The merchandise in NY 838201 was described as a 3 1/2 hp power washer mounted on a frame with three wheels and equipped with a handlebar. The power washer has a gasoline-powered engine, stainless steel piston, low pressure cleanser control, and a trigger-controlled spray mechanism. It has a water capacity of 3 GPM and a gross weight of 68 kgs. The power washer was advertised for use in washing automobiles, floors, walls, fences, etc.

The HTSUS provisions under consideration are as follows:

8424

Mechanical appliances...for projecting, dispersing or spraying liquids or powders; steam or sand blasting

machines and similar jet projecting machines:

8424.30.80 (now 90) Other steam or sand blasting machines
and similar jet projecting machines

8424.89 Other:

8424.89.00 (now 70) Other

Issue:

Whether power washers are jet projecting machines similar to steam or sand blasting machines.

Law and Analysis:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. Though not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System. Customs believes the ENs should always be consulted. See T.D. 89-80. 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

In our opinion, whether power washers are jet projecting machines "similar" to steam or sand blasting machines, requires that we identify the characteristic or characteristics that steam or sand blasting machines have in common, and whether the power washer at issue shares that/those characteristics. To be classifiable in subheading 8424.30.90, HTSUS, the power washers the subject of NY 838201 must be substantially the same as steam or sand blasting machines in terms of design, construction, function, and use.

The ENs on p. 1287, under the heading (C) **STEAM OR SAND BLASTING MACHINES AND SIMILAR JET PROJECTING MACHINES**, include the following:

Sand blasting machines and the like are often of heavy construction and sometimes incorporate compressors. They are used for de-scaling or cleaning metal articles, for etching or putting a matt surface on glass, stone, etc, by subjecting the articles to the action of high pressure jets of sand, metal abrasives, etc. They are usually fitted with dust extractors to remove the residual sand and dust. The heading also covers steam blast appliances used, for example, for de-greasing machined metal, etc.

From the EN description, it is apparent that sand blasting machines, steam blast appliances, and power washers all have the same essential components, i.e., motor, pump or piston and spraying wand; steam blast appliances and power washers often incorporate a heater coil which gives them the ability to create steam; whether using steam or sand, pressurized water or heated pressurized water, alone or in combination with a cleaning solvent, all are of a class or kind of machines and appliances used for *cleaning* purposes to remove foreign matter from a target surface; and (3) all *project* their cleaning media, that is, they discharge or emit a forceful stream of effluent from a nozzle or narrow opening. We conclude that in terms of design, construction, function and use, the power washers at issue are jet projecting machines similar to steam or sand blasting machines.

In an effort to achieve uniformity in the interpretation of the Harmonized System (HS) at the international level, Customs regards rulings from other countries that classify identical or substantially similar merchandise as instructive.

However, such rulings do not constitute the official interpretation of the HS. For this and other reasons, these rulings shall not be treated as dispositive and Customs is not bound by them. Nevertheless, however, a ruling from the Munich Branch of the German Customs Directory, and another from Revenue Canada have recently been brought to our attention. These rulings classify power washers believed to be substantially similar to the ones at issue here in subheading 8424.30.80 (now 90). These rulings are consistent with our classification under the HTSUS.

Holding:

Under the authority of GRI 1, the power washers, as described, are provided for in heading 8424. They are classifiable in subheading 8424.30.90, HTSUS.

Effect on other Rulings:

NY 838201, dated March 28, 1989, is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT C]

January 4, 2001
CLA-2 RR:CR:GC 964637 JAS
Category: Classification
Tariff No. 8424.30.90

MR. DAVID A. WALSER
ARTHUR J. HUMPHREYS DIV.
BORDER BROKERAGE CO., INC.
P.O. Box 249
Sumas, WA 98295

Re: NY 838018 Modified; Wet Jet Pressure Washer.

DEAR MR. WALSER:

In NY 838018, dated March 17, 1989, which the Area Director of Customs (now the Director of Customs National Commodity Specialist Division), New York, issued to you on behalf of Braber Equipment, Ltd., the Wet Jet Pressure Washer, a product of Canada, was held to be classified in subheading 8424.89.00 (now 70), Harmonized Tariff Schedule of the United States (HTSUS), as other mechanical appliances for projecting, dispersing or spraying liquids or powders.

NY 838018 also held that the Wet Jet Pressure Washer qualified for duty-free entry under subheading 9817.00.50, HTSUS, as machinery, equipment and implements to be used for agricultural or horticultural purposes, if actually used in agricultural pursuits, and upon compliance with sections 10.131-10.139 of the Customs regulations. We have reconsidered the subheading 8424.89.00 classification and now believe that it is incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993),

notice of the proposed modification of NY 838018 was published on November 29, 2000, in the *CUSTOMS BULLETIN*, Volume 34, Number 48. No comments were received in response to that notice.

Facts:

The merchandise in NY 838018 was described as a pressure washer powered by a 5 hp gasoline engine with no self-contained holding tank. It utilizes tap water run through a hose which enables a farmer to spray-clean milking parlors or farm machinery. The ruling contained no further description of the device. Pressure washers of this type may be on a wheeled chassis or floor mounted, may be powered by electric or gasoline motors, and incorporate pumps or pistons, hose and nozzle. Generally, they take low-pressure tap water, pass it through a pump or piston to increase the water's exit pressure, then through a high-pressure hose, handgun and spray lance to a high-pressure nozzle or other aperture.

The HTSUS provisions under consideration are as follows:

8424	Mechanical appliances...for projecting, dispersing or spraying liquids or powders; steam or sand blasting machines and similar jet projecting machines:
8424.30.80 (now 90)	Other steam or sand blasting machines and similar jet projecting machines
8424.89	Other:
8424.89.00 (now 70)	Other

Issue:

Whether the pressure washer is a jet projecting machine similar to steam or sand blasting machines.

Law and Analysis:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. Though not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System. Customs believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

In our opinion, whether the pressure washer at issue is a jet projecting machine "similar" to steam or sand blasting machines, requires that we identify the characteristic or characteristics that steam or sand blasting machines have in common, and whether the power washer at issue shares that/those characteristics. To be classifiable in subheading 8424.30.90, HTSUS, the pressure washers the subject of NY 838018 must be substantially the same as steam or sand blasting machines in terms of design, construction, function, and use.

The ENs on p. 1287, under the heading (C) **STEAM OR SAND BLASTING MACHINES AND SIMILAR JET PROJECTING MACHINES**, include the following:

Sand blasting machines and the like are often of heavy construction and sometimes incorporate compressors. They are used for de-scaling or cleaning metal articles, for etching or putting a matt surface on glass, stone, etc, by subjecting the articles to the action of high pressure jets of sand, metal abrasives, etc. They are usually fitted with

dust extractors to remove the residual sand and dust. The heading also covers steam blast appliances used, for example, for de-greasing machined metal, etc.

From the EN description, it is apparent that sand blasting machines, steam blast appliances, and power washers all have the same or similar essential components, i.e., motor, pump and spraying wand or nozzle of some type; steam blast appliances and power washers sometimes incorporate a heater coil which gives them the ability to create steam; whether using steam or sand, pressurized water or heated pressurized water, alone or in combination with a cleaning solvent, all are of a class or kind of machines and appliances used for *cleaning* purposes to remove foreign matter from a target surface; and (3) all *project* their cleaning media, that is, they discharge or emit a forceful stream of effluent from a nozzle or narrow opening. We conclude that in terms of design, construction, function and use, the pressure washers at issue in NY 838018 are jet projecting machines similar to steam or sand blasting machines.

In an effort to achieve uniformity in the interpretation of the Harmonized System (HS) at the international level, Customs regards rulings from other countries that classify identical or substantially similar merchandise as instructive. However, such rulings do not constitute the official interpretation of the HS. For this and other reasons, these rulings shall not be treated as dispositive and Customs is not bound by them. Nevertheless, a ruling from the Munich Branch of the German Customs Directory, and another from Revenue Canada have recently been brought to our attention. These rulings classify power washers believed to be substantially similar to the Wet Jet Pressure Washer in subheading 8424.30.80 (now 90). These rulings are consistent with our classification under the HTSUS.

Holding:

Under the authority of GRI 1, the pressure washers, as described, are provided for in heading 8424. They are classifiable in subheading 8424.30.90, HTSUS.

Effect on other Rulings:

NY 838018, dated March 17, 1989, is modified as to this classification. However, the pressure washers remain eligible for classification under subheading 9817.00.50, HTSUS, upon compliance with applicable law and Customs Regulations. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT D]

January 4, 2001
CLA-2 RR:CR:GC 964658 JAS
Category: Classification
Tariff No. 8424.30.90

MR. PAUL S. ANDERSON
SONNENBERG, ANDERSON & RODRIGUEZ
200 South Wacker Drive, 33rd Floor
Chicago, Illinois 60606

Re: HQ 952868 Modified; Mechanical Sprayers.

DEAR MR. ANDERSON:

In HQ 952868, dated November 26, 1993, certain K.E.W. Cleaning Systems (U.S.A.), Inc., mechanical sprayers or high pressure cleaners were held to be classifiable in subheading 8424.89.00 (now 70), Harmonized Tariff Schedule of the United States (HTSUS), as other mechanical appliances for projecting, dispersing or spraying liquids or powders. The high pressure cleaners were also found to be eligible under subheading 9817.00.50, HTSUS, as machinery, equipment and implements to be used for agricultural or horticultural purposes, upon compliance with applicable law and Customs Regulations.

We have reconsidered the subheading 8424.89.00 classification and now believe that it is incorrect. We believe that the mechanical sprayers are jet projecting machines similar to steam or sand blasting machines. However, because HQ 952868 was a decision on Application for Further Review of Protest 3901-92-100453, any reliquidation of the entry in this protest will be unaffected by this decision.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of the principles expressed in HQ 952868 was published on November 29, 2000, in the CUSTOMS BULLETIN, Volume 34, Number 48. No comments were received in response to that notice.

Facts:

The merchandise in HQ 952868 was identified as the sprayer/cleaner models 2802V, 25A2K, 4003K, 4503KB, 1502V, 1002K, 5203K, 3803V, 1702K, 1702KSA, 5003V, 2903K, 4003KSA, and the Professional and Contractor models. The sprayers consist of the following components: (1) a high pressure pump powered either by an electric motor or an air cooled internal combustion engine; (2) inlet connection to connect cold water supply to the sprayer; (3) where applicable, an electric cable to connect the electric motor to the power supply; (4) a high pressure hose and spray wand with flat jet nozzle; and (5) a boiler system for hot water models. All components are in a common housing mounted on a wheeled frame.

On protest, you maintained that high pressure cleaning to remove manure from barns and stalls for sanitary purposes, and for cleaning agricultural machinery is a legitimate agricultural use, and that these units are principally marketed to the agricultural industry for these purposes. However, Customs liquidated the entry under protest under provision for other mechanical appliances for spraying liquids or powders, in subheading 8424.89.00, HTSUS, on the basis that the washing of barns and stalls and agricultural machinery had not been shown to be a legitimate agricultural use.

The HTSUS provisions under consideration are as follows:

8424	Mechanical appliances...for projecting, dispersing or spraying liquids or powders; steam or sand blasting machines and similar jet projecting machines:
8424.30.80 (now 90)	Other steam or sand blasting machines and similar jet projecting machines
8424.81	Other agricultural or horticultural appliances:
8424.81.10	Sprayers (except sprayers, self-contained, having a capacity not over 20 liters)
8424.89	Other:
8424.89.00 (now 70)	Other

Issue:

Whether the sprayer/cleaner models are jet projecting machines similar to steam or sand blasting machines.

Law and Analysis:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). GRI 1 states in part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the HTSUS. While not legally binding, the ENs provide a commentary on the scope of each heading of the HTSUS and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

In addition to removing manure from barns and stalls, high pressure cleaning machines and appliances are used to clean house exteriors, cars, decks, boats, lawn equipment, sidewalks, gutters, patio furniture, among other things. They may be either commercial or domestic, mounted on a wheeled chassis or floor standing, and consist basically of either electric or gasoline-powered, motor driven pumps or pistons which force water through a hose to a wand, nozzle or other aperture to attain a high pressure spray to clean the surface of the target article. At lower pressures, some models may have a suction hose that draws detergent or other cleaning solvent from a reservoir into the system to enhance the washer's cleaning capability.

We continue to be of the opinion that classification under subheading 8424.81.10 is undocumented because of insufficient evidence that the sprayers are principally used in agricultural or horticultural pursuits. In our opinion, the relevant issue is whether power washers are jet projecting machines "similar" to steam or sand blasting machines. To resolve this issue requires that we identify the characteristic or characteristics that steam or sand blasting machines have in common, and whether the power washer at issue shares that/those characteristics. This is the statutory rule of construction *ejusdem generis*. To be classifiable in subheading 8424.30.90, HTSUS, the high pressure cleaners the subject of HQ 952868 must be substantially the same as steam or sand blasting machines in terms of design, construction, function, and use.

The ENs on p. 1287, under the heading (C) **STEAM OR SAND BLASTING MACHINES AND SIMILAR JET PROJECTING MACHINES**, include the following:

Sand blasting machines and the like are often of heavy construction and sometimes incorporate compressors. They are used for de-scaling or cleaning metal articles, for etching or putting a matt surface on glass, stone, etc, by subjecting the articles to the action of high pressure jets of sand, metal abrasives, etc. They are usually fitted with dust extractors to remove the residual sand and dust. The heading also covers steam blast appliances used, for example, for de-greasing machined metal, etc.

From the EN description, it is apparent that sand blasting machines, steam blast appliances, and pressure cleaners or washers all have the same essential components, i.e., motor, pump or piston and spraying nozzle or wand; steam blast appliances and pressure washers commonly incorporate a heater coil which gives them the ability to create steam; whether using steam or sand, pressurized water or heated pressurized water, alone or in combination with a cleaning solvent, all are

of a class or kind of machines and appliances used for *cleaning* purposes to remove foreign matter from a target surface; and (3) all *project* their cleaning media, that is, they discharge or emit a forceful stream of effluent from a nozzle, wand or other narrow opening. We conclude that in terms of design, construction, function and use, the high pressure sprayer/ cleaners in HQ 952868 are jet projecting machines similar to steam or sand blasting machines.

In an effort to achieve uniformity in the interpretation of the Harmonized System (HS) at the international level, Customs regards rulings from other countries that classify identical or substantially similar merchandise as instructive. However, such rulings do not constitute the official interpretation of the HS. For this and other reasons, these rulings shall not be treated as dispositive and Customs is not bound by them. Nevertheless, a ruling from the Munich Branch of the German Customs Directory, and another from Revenue Canada have recently been brought to our attention. These rulings classify power washers believed to be substantially similar in design and function to the high pressure sprayer/cleaners at issue here in subheading 8424.30.80 (now 90). These rulings are consistent with our classification under the HTSUS.

Holding:

Under the authority of GRI 1, the high pressure sprayer/cleaner models the subject of HQ 952868 are provided for in heading 8424. They are classifiable in subheading 8424.30.90, HTSUS.

Effect on other Rulings:

HQ 952868, dated November 23, 1993, is modified as to this classification. However, these models remain eligible for classification under subheading 9817.00.50, HTSUS, upon compliance with applicable law and Customs Regulations. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT E]

January 4, 2001
CLA-2 RR:CR:GC 964664 JAS
Category: Classification
Tariff No. 8424.30.90

MR. SILVIO FAVRIN
J.C. HALLMAN MANUFACTURING CO., LTD
141 Weber Street S.
Waterloo, Ontario
Canada N2J 2A9

Re: NY 837810 Modified; High Pressure Washer.

DEAR MR. FAVRIN:

In NY 837810, which the Area Director of Customs (now Director of Customs National Commodity Specialist Division), New York, issued to you on March 17, 1989, high pressure washers from Canada were held to be classified in subheading

8424.89.00 (now 70), Harmonized Tariff Schedule of the United States (HTSUS), as other mechanical appliances for projecting, dispersing or spraying liquids or powders.

NY 837810 also held that the high pressure washers qualified for a reduced rate of duty as an originating good under the United States-Canada Free trade Agreement (FTA) and for duty-free entry under subheading 9817.00.50, HTSUS, as machinery, equipment and implements to be used for agricultural or horticultural purposes, if actually used in agricultural pursuits, and upon compliance with sections 10.131-10.139 of the Customs regulations. We have reconsidered the subheading 8424.89.00 classification and now believe that it is incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of NY 837810 was published on November 29, 2000, in the CUSTOMS BULLETIN, Volume 34, Number 48. No comments were received in response to this notice.

Facts:

The merchandise in NY 837810 is the Hallman High Pressure Washer. It was described as an electric motor-driven ceramic piston pump designed to increase pressure on water from a faucet to as much as 1,000 lbs. per square inch. It is housed in a heavy metal casing with a plastic cover and mounted on a wheeled chassis with a handle. The water is delivered through a high-pressure hose to a gun assembly to be sprayed through a nozzle onto the target article. Germicides and detergents may in some cases be mixed with the water to enhance the device's cleaning capability. The High Pressure Washer may be used to clean farm machinery as well as house exteriors, cars, decks, boats, lawn equipment, sidewalks, gutters, patio furniture, among other things.

The HTSUS provisions under consideration are as follows:

8424 Mechanical appliances...for projecting, dispersing or spraying liquids or powders; steam or sand blasting machines and similar jet projecting machines:

8424.30.80 (now 90) Other steam or sand blasting machines and similar jet projecting machines

8424.89 Other:

8424.89.00 (now 70) Other

Issue:

Whether Hallman High Pressure Washer is a jet projecting machine similar to steam or sand blasting machines.

Law and Analysis:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. Though not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System. Customs believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Initially, the provision in subheading 8424.30.90, if it applies, is more specific than subheading 8424.89.00 (now 70), which is a "basket" provision. In our opinion, whether power washers are jet projecting machines "similar" to steam or sand

blasting machines, requires that we identify the characteristic or characteristics that steam or sand blasting machines have in common, and whether the power washer at issue shares that/those characteristics. To be classifiable in subheading 8424.30.90, HTSUS, the pressure washers the subject of NY 837810 must be substantially the same as steam or sand blasting machines in terms of design, construction, function, and use.

The ENs on p. 1287, under the heading (C) **STEAM OR SAND BLASTING MACHINES AND SIMILAR JET PROJECTING MACHINES**, include the following:

Sand blasting machines and the like are often of heavy construction and sometimes incorporate compressors. They are used for de-scaling or cleaning metal articles, for etching or putting a matt surface on glass, stone, etc, by subjecting the articles to the action of high pressure jets of sand, metal abrasives, etc. They are usually fitted with dust extractors to remove the residual sand and dust. The heading also covers steam blast appliances used, for example, for de-greasing machined metal, etc.

From the EN description, it is apparent that sand blasting machines, steam blast appliances, and pressure or power washers all have the same essential components, i.e., motor, pump or piston and spraying wand or nozzle; steam blast appliances and power washers commonly incorporate a heater coil which gives them the ability to create steam; whether using steam or sand, pressurized water or heated pressurized water, alone or in combination with a cleaning solvent, all are of a class or kind of machines and appliances used for *cleaning* purposes to remove foreign matter from a target surface; and (3) all *project* their cleaning media, that is, they discharge or emit a forceful stream of effluent from a nozzle or other narrow opening. We conclude that in terms of design, construction, function and use, the pressure washers at issue are jet projecting machines similar to steam or sand blasting machines.

In an effort to achieve uniformity in the interpretation of the Harmonized System (HS) at the international level, Customs regards rulings from other countries that classify identical or substantially similar merchandise as instructive. However, such rulings do not constitute the official interpretation of the HS. For this and other reasons, these rulings shall not be treated as dispositive and Customs is not bound by them. Nevertheless, however, a ruling from the Munich Branch of the German Customs Directory, and another from Revenue Canada have recently been brought to our attention. These rulings classify power washers believed to be substantially similar to the ones at issue here in subheading 8424.30.80 (now 90). These rulings are consistent with our classification under the HTSUS.

Holding:

Under the authority of GRI 1, the Hallman High Pressure Washer, as described, is provided for in heading 8424. It is classifiable in subheading 8424.30.90, HTSUS.

Effect on other Rulings:

NY 837810, dated March 17, 1989, is modified accordingly. However, the pressure washer remains eligible for the reduced rate of duty under the FTA, and for free entry under subheading 9817.00.50, HTSUS, both upon compliance with applicable law and Customs Regulations. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the **CUSTOMS BULLETIN**.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT F]

January 4, 2001

CLA-2 RR:CR:GC 964665 JAS

Category: Classification

Tariff No. 8424.30.90

Ms. SUSAN E. CARR
 C. J. TOWER INC.
 128 Dearborn Street
 Buffalo, NY 14207-3198

Re: NY 843315 Modified; Pressure Washer.

DEAR MS. CARR:

In NY 843315, dated July 13, 1989, which the Area Director of Customs (now the Director of Customs National Commodity Specialist Division), New York, issued to you on behalf of Bill's Stabling & Mfg. Ltd., pressure washers, products of Canada, among other articles, were held to be classified in subheading 8424.89.00 (now 70), Harmonized Tariff Schedule of the United States (HTSUS), as other mechanical appliances for projecting, dispersing or spraying liquids or powders.

NY 843315 also held that the pressure washers originating in the territory of Canada were eligible for a reduced rate of duty under the United States-Canada Free Trade Agreement, and also for duty-free entry under subheading 9817.00.50, HTSUS, as machinery, equipment and implements to be used for agricultural or horticultural purposes, if actually used in agricultural pursuits, and upon compliance with sections 10.131-10.139 of the Customs regulations. We have reconsidered the subheading 8424.89.00 classification and now believe that it is incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of NY 843315 was published on November 29, 2000, in the CUSTOMS BULLETIN, Volume 34, Number 48. No comments were received in response to that notice.

Facts:

The merchandise in NY 843315, in part, was described as pressure washers used with spray guns in the cleaning of housing facilities for animals, particularly hog and dairy. They may be either electric or gasoline-operated, portable or stationary, and vary in operating pressure. Submitted literature depicts articles that essentially utilize low-pressure tap water run through a hose to a high-pressure pump to a spray wand and revolving nozzle. They may be used on building exteriors, decks, cars, boats, sidewalks, gutters and patio furniture for washing, sterilizing, disinfecting and cleaning operations. In this case, they are said to enable a farmer to spray-clean hog and dairy facilities and farm machinery.

The HTSUS provisions under consideration are as follows:

- | | |
|---------------------|---|
| 8424 | Mechanical appliances...for projecting, dispersing or spraying liquids or powders; steam or sand blasting machines and similar jet projecting machines: |
| 8424.30.80 (now 90) | Other steam or sand blasting machines and similar jet projecting machines |
| 8424.89 | Other: |
| 8424.89.00 (now 70) | Other |

Issue:

Whether the pressure washers are jet projecting machines similar to steam or sand blasting machines.

Law and Analysis:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. Though not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System. Customs believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Initially, the provision in subheading 8424.30.90, if it applies, will prevail over subheading 8424.89.70, which is a "basket" provision. In our opinion, whether the pressure washer at issue is a jet projecting machine "similar" to steam or sand blasting machines, requires that we identify the characteristic or characteristics that steam or sand blasting machines have in common, and whether the power washer at issue shares that/those characteristics. To be classifiable in subheading 8424.30.90, HTSUS, the pressure washers the subject of NY 843315 must be substantially the same as steam or sand blasting machines in terms of design, construction, function, and use.

The ENs on p. 1287, under the heading (C) **STEAM OR SAND BLASTING MACHINES AND SIMILAR JET PROJECTING MACHINES**, include the following:

Sand blasting machines and the like are often of heavy construction and sometimes incorporate compressors. They are used for de-scaling or cleaning metal articles, for etching or putting a matt surface on glass, stone, etc, by subjecting the articles to the action of high pressure jets of sand, metal abrasives, etc. They are usually fitted with dust extractors to remove the residual sand and dust. The heading also covers steam blast appliances used, for example, for de-greasing machined metal, etc.

From the EN description, it is apparent that sand blasting machines, steam blast appliances, and pressure or power washers all have the same or similar essential components, *i.e.*, motor, pump or piston, and spraying wand or nozzle of some type; steam blast appliances and pressure washers sometimes incorporate a heater coil which gives them the ability to create steam; whether using steam or sand, pressurized water or heated pressurized water, alone or in combination with a cleaning solvent, all are of a class or kind of machines and appliances used for *cleaning* purposes to remove foreign matter from a target surface; and (3) all *project* their cleaning media, that is, they discharge or emit a forceful stream of effluent from a nozzle or narrow opening. We conclude that in terms of design, construction, function and use, the pressure washers at issue in NY 843315 are jet projecting machines similar to steam or sand blasting machines.

In an effort to achieve uniformity in the interpretation of the Harmonized System (HS) at the international level, Customs regards rulings from other countries that classify identical or substantially similar merchandise as instructive. However, such rulings do not constitute the official interpretation of the HS. For this and other reasons, these rulings shall not be treated as dispositive and Customs is not bound by them. Nevertheless, a ruling from the Munich Branch of the German Customs Directory, and another from Revenue Canada have recently been brought to our attention. These rulings classify power washers believed to be substantially similar to the Wet Jet Pressure Washer in subheading 8424.30.80 (now 90). These rulings are consistent with our classification under the HTSUS.

Holding:

Under the authority of GRI 1, the pressure washers, as described, are provided for in heading 8424. They are classifiable in subheading 8424.30.90, HTSUS.

Effect on other Rulings:

NY 843315, dated July 13, 1989, is modified as to this classification. However, the pressure washers remain eligible for the reduced rate of duty under the FTA, and also for classification under subheading 9817.00.50, HTSUS, both upon compliance with applicable law and Customs Regulations. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT G]

January 4, 2001
CLA-2 RR:CR:GC 964666 JAS
Category: Classification
Tariff No. 8424.30.90

MS. TRACY ELLMAN
PBB GROUP
434 Delaware Ave.
Buffalo, NY 14202

Re: NY 896995 Revoked; Power Spray Washer.

DEAR MS. ELLMAN:

In NY 896995, dated April 25, 1994, which the Area Director (now Director of Customs National Commodity Specialist Division) New York, issued to you on behalf of Proceco Industrial Machinery Ltd., the Typhoon-HD heavy duty power spray washer was held to be classifiable in subheading 8424.89.00 (now 70), Harmonized Tariff Schedule of the United States (HTSUS), as other mechanical appliances for projecting, dispersing or spraying liquids or powders. We have reconsidered this classification and now believe that it is incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY 896995 was published on November 29, 2000, in the CUSTOMS BULLETIN, Volume 34, Number 48. No comments were received in response to that notice.

Facts:

The merchandise in NY 896995, the Typhoon-HD heavy duty spray washer, combines chemical, heat and the mechanical scrubbing action of its spray jets for fast cleaning action. The spray washer is a large industrial machine that comes in various models. It may be either electric, gas or steam heated, and features a tank and cabinet of steel plate construction, polyurethane insulation, and a steel outer shell. The spray washer incorporates a turntable with a capacity of from 1,000 to 20,000 lbs. This permits the target material to rotate while it is cleaned or washed

from all sides. Among other things, the spray washer has a fresh water inlet and solenoid valve for rinsing and rapid filling of the tank, thermostat for automatic temperature control of the water, automatic solution lever control for mixing detergents and other solvents, and pneumatic control for oscillating the central nozzle pipe. The Typhoon-HD spray washer is advertised for heavy-duty degreasing, glue pot cleaning and rinsing, inkpot cleaning, paint stripping, rust proofing and phosphating prior to rinsing, among other industrial uses.

In your ruling request of April 14, 1994, you noted that previous importations of the Typhoon-HD spray washer have been made through the Customs ports at Blaine, WA and Champlain, NY. You state that classification under subheading 8424.30.90, HTSUS, steam or sand blasting machines and similar jet projecting machines may have been considered.

The HTSUS provisions under consideration are as follows:

8424	Mechanical appliances...for projecting, dispersing or spraying liquids or powders; steam or sand blasting machines and similar jet projecting machines:
8427.30.80 (now 90)	Other steam or sand blasting machines and similar jet projecting machines
8424.89	Other:
8424.89.00 (now 70)	Other

Issue:

Whether the Typhoon-HD heavy-duty spray washer is a jet projecting machine similar to steam or sand blasting machines.

Law and Analysis:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). GRI 1 states in part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the HTSUS. While not legally binding, the ENs provide a commentary on the scope of each heading of the HTSUS and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Customs believes that the power spray washer at issue may belong to a class or kind of high pressure cleaning machines and appliances used to clean house exteriors, cars, decks, boats, lawn equipment, sidewalks, gutters, patio furniture, in addition to the uses attributed to the Typhoon-HD.

The subheading 8424.30.90 classification, if it applies, would prevail over subheading 8424.89.00 (now 70), which is a "basket" provision. In our opinion, whether the Typhoon-HD power spray washer is a jet projecting machines "similar" to steam or sand blasting machines requires that we identify the characteristic or characteristics that steam or sand blasting machines have in common, and whether the power washer at issue shares that/those characteristics. To be classifiable in subheading 8424.30.90, HTSUS, the power sprayer washer the subject of NY 896995 must be substantially the same as steam or sand blasting machines in terms of design, construction, function, and use.

The ENs on p. 1287, under the heading (C) **STEAM OR SAND BLASTING MACHINES AND SIMILAR JET PROJECTING MACHINES**, include the following:

Sand blasting machines and the like are often of heavy construction and sometimes incorporate compressors. They are used for de-scaling or cleaning metal articles, for etching or putting a matt surface on glass, stone, etc., by subjecting the articles to the action of high pressure jets of sand, metal abrasives, etc. They are usually fitted with dust extractors to remove the residual sand and dust. The heading also covers steam blast appliances used, for example, for de-greasing machined metal, etc.

From the EN description, it is apparent that sand blasting machines, steam blast appliances, and power or pressure cleaners or washers all have the same essential components, i.e., motor, pump or piston and spraying nozzle or wand; steam blast appliances and pressure washers and cleaners commonly incorporate a heater coil which gives them the ability to create steam; whether using steam or sand, pressurized water or heated pressurized water, alone or in combination with a cleaning solvent, all are of a class or kind of machines and appliances used for *cleaning* purposes to remove foreign matter from a target surface; and (3) all *project* their cleaning media, that is, they discharge or emit a forceful stream of effluent from a nozzle, wand or other narrow opening. We conclude that in terms of design, construction, function and use, the Typhoon-HD power spray washers in NY 896995 are jet projecting machines similar to steam or sand blasting machines.

In an effort to achieve uniformity in the interpretation of the Harmonized System (HS) at the international level, Customs regards rulings from other countries that classify identical or substantially similar merchandise as instructive. However, such rulings do not constitute the official interpretation of the HS. For this and other reasons, these rulings shall not be treated as dispositive and Customs is not bound by them. Nevertheless, a ruling from the Munich Branch of the German Customs Directory, and another from Revenue Canada have recently been brought to our attention. These rulings classify power washers believed to be substantially similar in design and function to the power spray washers at issue here in subheading 8424.30.80 (now 90). These rulings are consistent with our classification under the HTSUS.

Holding:

Under the authority of GRI 1, the Typhoon-HD power spray washer is provided for in heading 8424. It is classifiable in subheading 8424.30.90, HTSUS.

Effect on other Rulings:

NY 896995, dated April 25, 1994, is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT H]

January 4, 2001
CLA-2 RR:CR:GC 964667 JAS
Category: Classification
Tariff No. 8424.30.90

MR. DAVID A. WALSER
ARTHUR J. HUMPHREYS DIV.
BORDER BROKERAGE CO., INC.
P.O. Box 249
Sumas, WA 98295

Re: NY E83107 Modified; Pressure Washer.

DEAR MR. WALSER:

In NY E83107, dated June 17, 1999, which the Director of Customs National Commodity Specialist Division, New York, issued to you on behalf of BE Pressure Supply Inc., the PE-4013 Pressure Washer from Canada was held to be classified in subheading 8424.89.70, Harmonized Tariff Schedule of the United States (HTSUS), as other mechanical appliances for projecting, dispersing or spraying liquids or powders.

NY E83107 also held that the pressure washer, assembled in Canada with both originating and non-originating components was eligible for the tariff preference as an originating good under the North American Free Trade Agreement (NAFTA). We have reconsidered the subheading 8424.89.70 classification and now believe that it is incorrect.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification of NY E83107 was published on November 29, 2000, in the CUSTOMS BULLETIN, Volume 34, Number 48. No comments were received in response to that notice.

Facts:

The merchandise in NY E83107 was described as a 4000 PSI - 4 GPM pump powered by a 13 HP gasoline engine, all on a wheeled chassis with chrome frame. It has a thermal relief valve, a 50-foot pressure hose with couplers, a chemical injector kit, a 5000 PSI pressure gauge, a 4000 PSI gun with 36-inch insulated wand and 4 nozzles. The PE-4013 Pressure Washer is designed to force water through a hose and nozzle to attain a high power projection to clean a variety of surfaces, such as house exteriors, cars, decks, sidewalks, gutters, heavy equipment and the like.

The HTSUS provisions under consideration are as follows:

8424	Mechanical appliances...for projecting, dispersing or spraying liquids or powders; steam or sand blasting machines and similar jet projecting machines:
8424.30.80 (now 90)	Other steam or sand blasting machines and similar jet projecting machines
8424.89	Other:
8424.89.70	Other

Issue:

Whether the PE-4013 Pressure Washer is a jet projecting machine similar to steam or sand blasting machines.

Law and Analysis:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. Though not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System. Customs believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

The subheading 8424.30.90 classification, if it applies, will prevail over subheading 8424.89.70, which is a "basket" provision. In our opinion, whether the PE-4013 Pressure Washer is a jet projecting machine "similar" to steam or sand blasting machines requires that we identify the characteristic or characteristics that steam or sand blasting machines have in common, and whether the PE-4013 shares that/those characteristics. To be classifiable in subheading 8424.30.90, HTSUS, the pressure washer the subject of NY E83107 must be substantially the same as steam or sand blasting machines in terms of design, construction, function, and use.

The ENs on p. 1287, under the heading (C) **STEAM OR SAND BLASTING MACHINES AND SIMILAR JET PROJECTING MACHINES**, include the following:

Sand blasting machines and the like are often of heavy construction and sometimes incorporate compressors. They are used for de-scaling or cleaning metal articles, for etching or putting a matt surface on glass, stone, etc., by subjecting the articles to the action of high pressure jets of sand, metal abrasives, etc. They are usually fitted with dust extractors to remove the residual sand and dust. The heading also covers steam blast appliances used, for example, for de-greasing machined metal, etc.

From the EN description, it is apparent that sand blasting machines, steam blast appliances, and pressure or power washers all have the same essential components, *i.e.*, motor, pump and spraying wand or nozzle; steam blast appliances and power washers commonly incorporate a heater coil which gives them the ability to create steam; whether using steam or sand, pressurized water or heated pressurized water, alone or in combination with a cleaning solvent, all are of a class or kind of machines and appliances used for *cleaning* purposes to remove foreign matter from a target surface; and (3) all *project* their cleaning media, that is, they discharge or emit a forceful stream of effluent from a nozzle or narrow opening. We conclude that in terms of design, construction, function and use, the PE-4013 Pressure Washer is a jet projecting machine similar to steam or sand blasting machines.

In an effort to achieve uniformity in the interpretation of the Harmonized System (HS) at the international level, Customs regards rulings from other countries that classify identical or substantially similar merchandise as instructive. However, such rulings do not constitute the official interpretation of the HS. For this and other reasons, these rulings shall not be treated as dispositive and Customs is not bound by them. Nevertheless, however, a ruling from the Munich Branch of the German Customs Directory, and another from Revenue Canada have recently been brought to our attention. These rulings classify power washers believed to be substantially similar to the ones at issue here in subheading 8424.30.80 (now 90). These rulings are consistent with our classification under

the HTSUS.

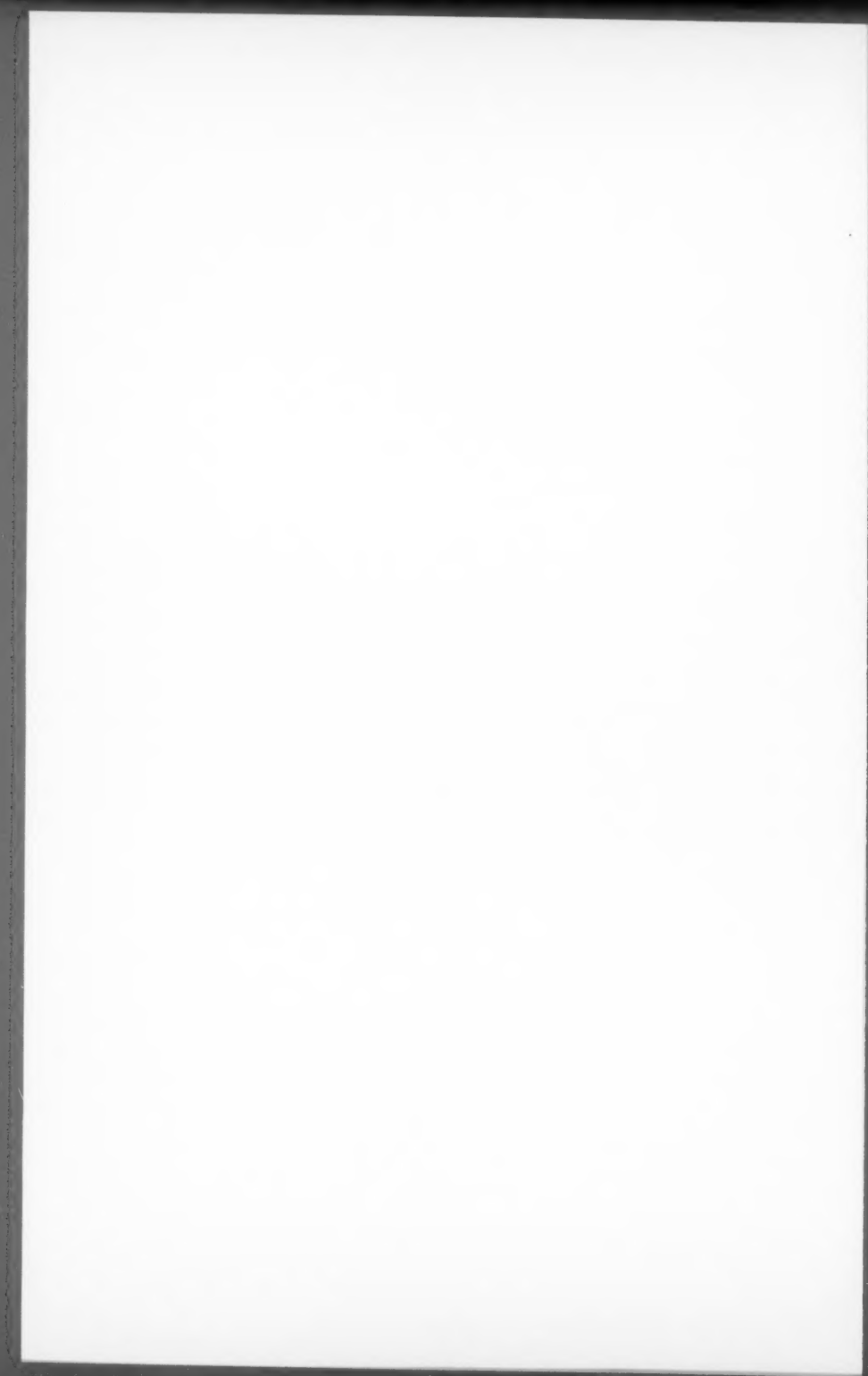
Holding:

Under the authority of GRI 1, the PE-4013 Pressure Washer is provided for in heading 8424. It is classifiable in subheading 8424.30.90, HTSUS.

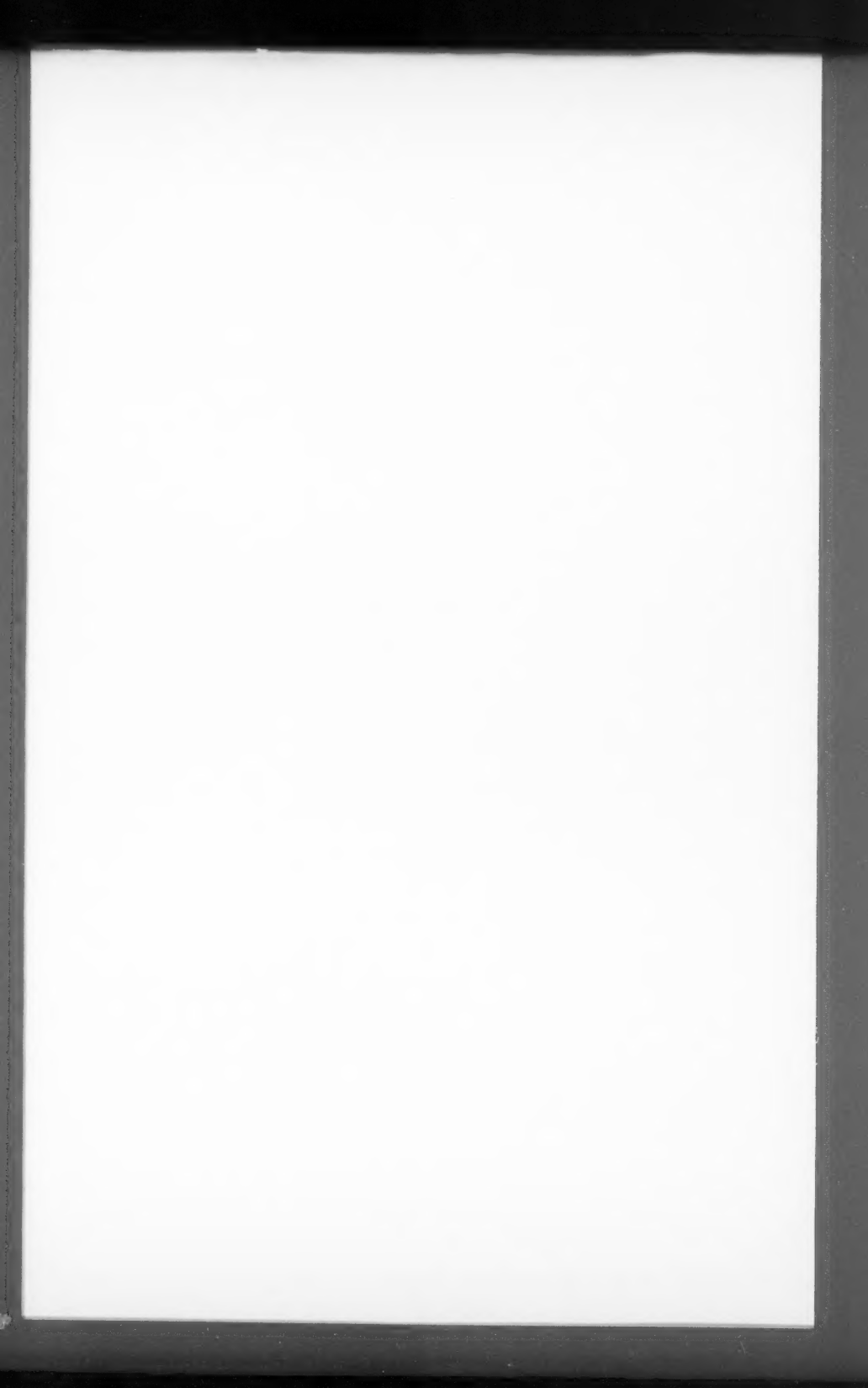
Effect on other Rulings:

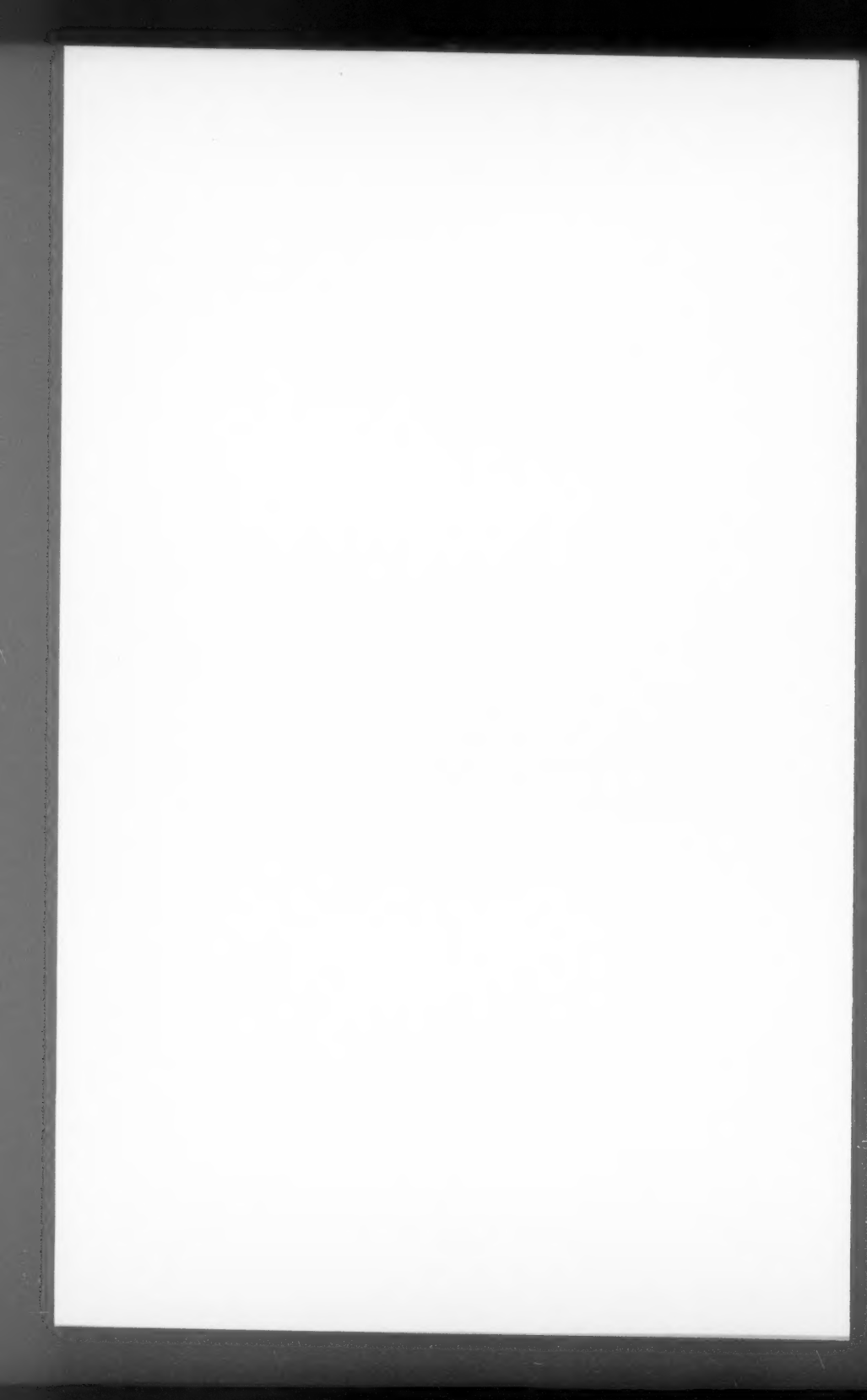
NY E83107, dated June 17, 1999, is modified as to this classification. However, in accordance with NY E83107, the pressure washer remains eligible for any available duty preference under the NAFTA, upon compliance with applicable law and Customs Regulations. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

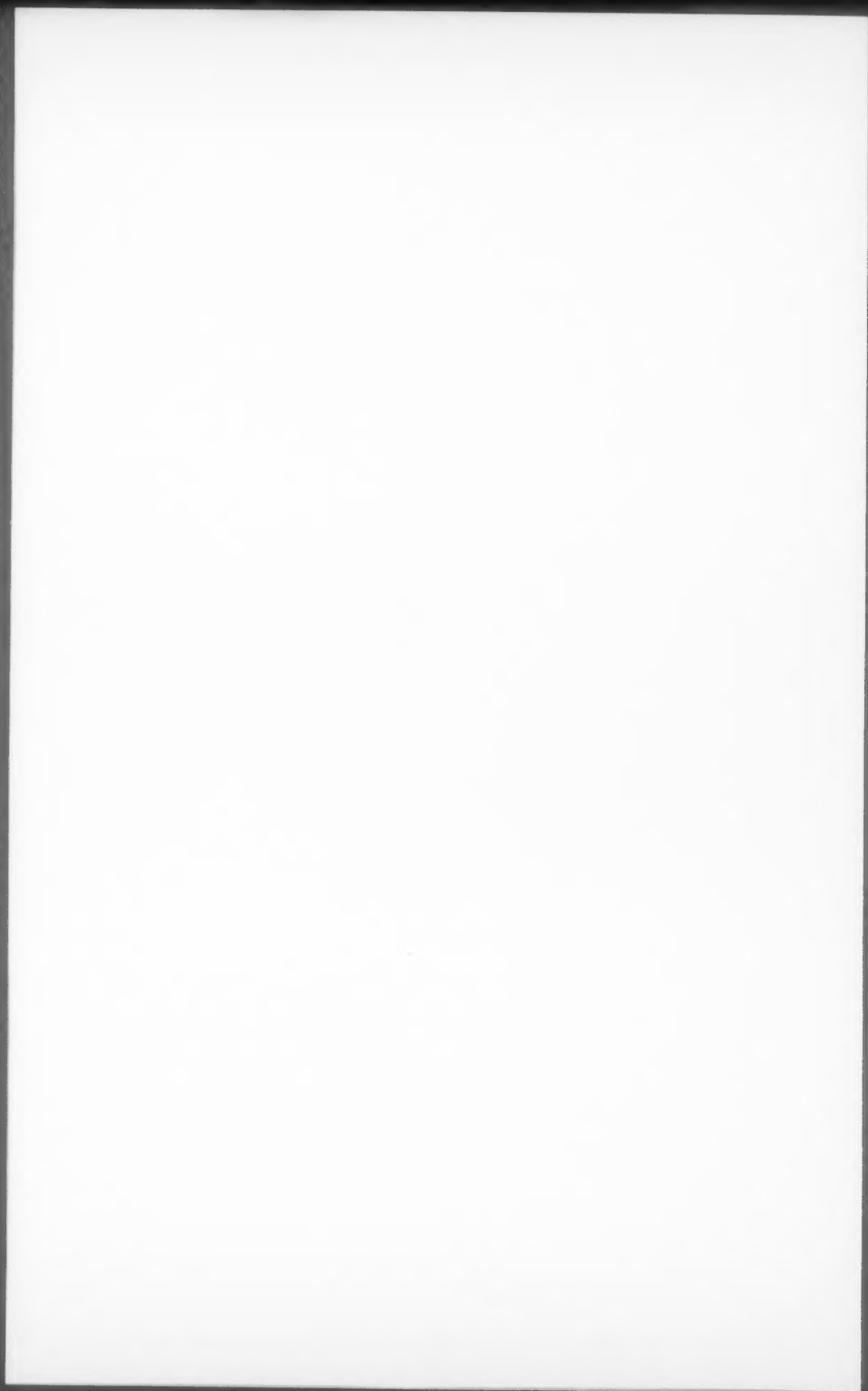
MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

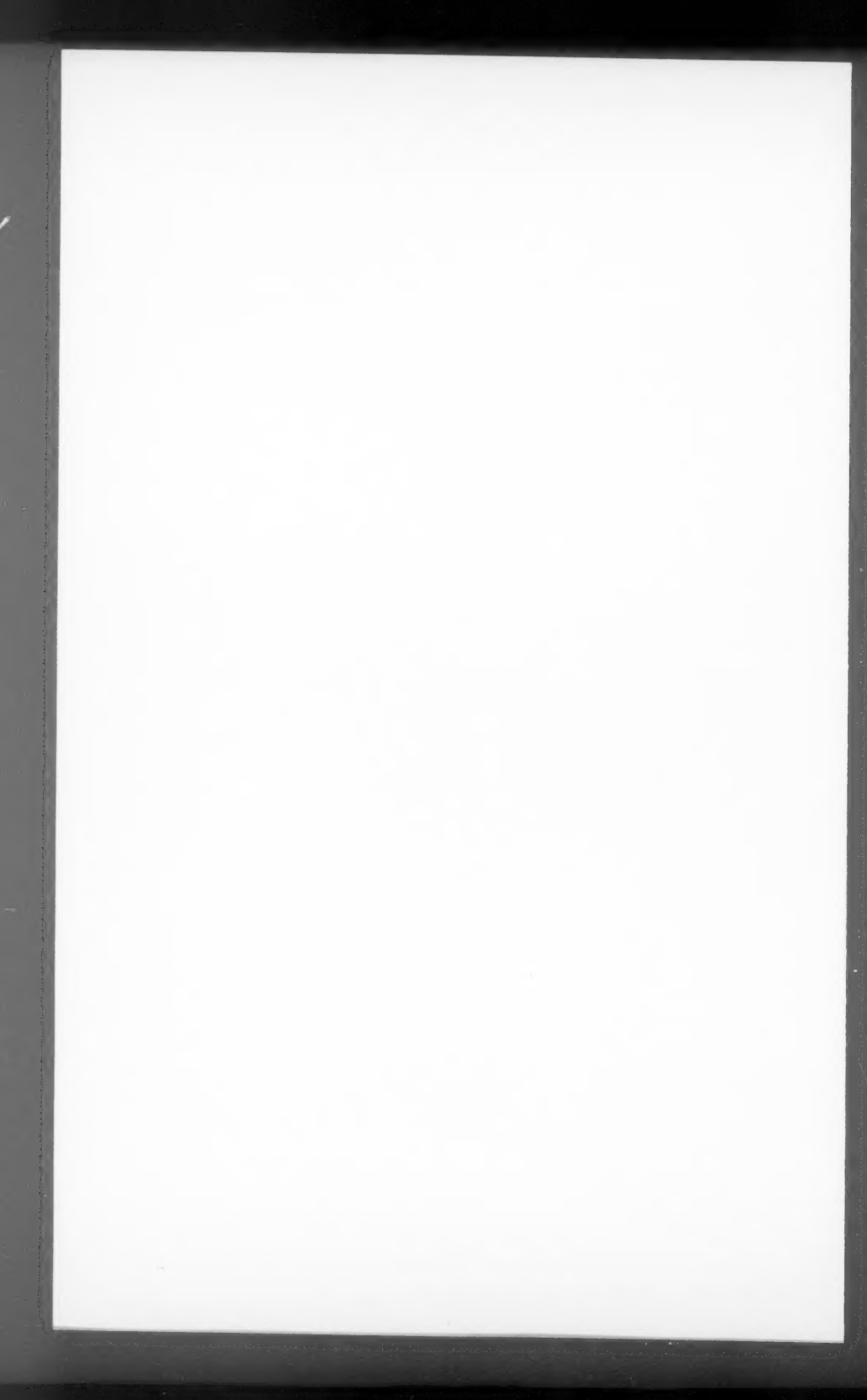












Index

Customs Bulletin and Decisions
Vol. 35, No. 4, January 24, 2001

U.S. Customs Service

Treasury Decisions

	T.D. No	Page
Foreign currencies:		
Certified rates of foreign exchange: first quarter, 2001	01-04	10
Daily rates for countries not on quarterly list for December 2000 .	01-03	1
Variances from quarterly rate for December 2000	01-05	11

General Notices

CUSTOMS RULINGS LETTERS AND TREATMENT

	Page
Tariff classification:	
Modification and revocation/revocation:	
Automatic alarm system for motor vehicles	50
Power washers	56
Proposed modification/revocation:	
Steel strainers	25
Proposed revocation:	
Textile book covers	16
Revocation and modification:	
Vegetable peelers	32



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